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Current Topics.

Judicial Changes.

BY the resignation of Mr. Justice TALBOT, a conspicuous gap is made in the ranks of the judges of the King's Bench Division, and we can only voice the regret universally felt that the state of his health has led him to take the step of severing his connection with the Law Courts. In his junior days, like many another who was to win distinction on the Bench, he utilised the leisure then available for him in the preparation of various legal works. In conjunction with Mr. H. FORT he compiled a very useful Index of Cases Judicially Considered, while by himself he wrote on such antithetical subjects as Ritual and Licensing. Called within the Inner Bar in 1906 at the same time as the present LORD ATKIN and Lord Justice ROMER he acquired a large practice at the Parliamentary Bar which, like his other specialities, proved valuable when in 1923 he was appointed a judge. On the Bench he was ever patient and willing to listen to the arguments of counsel before expressing his views; an attitude not so common as it might and should be. In recent months he was called on several times, during the absence through illness of one or other of the Lords Justices, to sit in the Court of Appeal, and it is of interest to recall that in one of the last cases in which he there took part it fell to him to give the deciding voice in view of the divergence of view between the two Lords Justices. Although now retiring from active daily service in the courts, the fact of his being sworn of the Privy Council will enable him, if health permits, to give occasional assistance in the Judicial Committee as so many of his predecessors have done. His resignation, coupled with that of Mr. Justice HORRIDGE and the promotion of Mr. Justice MACKINNON to the Court of Appeal, having brought the number of the puisnes in the King's Bench Division to sixteen, has enabled the appointment of a new judge to be made without the necessity of an address from both Houses of Parliament; and so, to fill the vacancy just created, the Lord Chancellor has appointed Mr. FREDERIC JOHN WROTTESLEY, K.C., who, like Mr. Justice TALBOT, may be said to have graduated at the Parliamentary Bar; and the experience there gained, and in rating and kindred matters, will doubtless be of great value in the class of cases coming before the Divisional Court taking what is known as Crown Paper. Some years ago the new judge brought out an extremely interesting and useful book on "The Examination of Witnesses in Court."

Solicitors in the Cabinet.

IN the new Cabinet formed by Mr. NEVILLE CHAMBERLAIN the solicitor branch of the profession is well represented by two distinguished members—Sir KINGSLEY WOOD, who retains his former office as Minister of Health, in which he has done yeoman service, and Dr. LESLIE BURGIN, who was included in the Coronation honours as the recipient of a Privy Councillorship in recognition of the excellence of his work in the post of Parliamentary Secretary to the Board of Trade, and who now succeeds Mr. HORE BELISHA as Minister of Transport, an office of continually growing importance in which he will find abundant scope for his energies and tactical skill. Time was, and that not so very long ago, when the appointment of a solicitor as a member of the Government, even outside the Cabinet, would have occasioned some surprise as being not in accordance with the conventions in such matters; but this former attitude received its quietus when Mr. H. W. FOWLER (afterwards LORD WOLVERHAMPTON) was invited by Mr. GLADSTONE to undertake the duties of President of the Local Government Board with a seat in the Cabinet, an office in which he certainly showed marked ability and constructive power. In more recent years not a few solicitor members of the profession have served in the Cabinet, where their practical knowledge of affairs proved of great value, and one of them, Mr. LLOYD GEORGE, achieved the distinction of being the first to attain to the highest office in the Government.

The Prime Minister's Official Status.

THE new Premier, Mr. CHAMBERLAIN, comes to an office which, though long the most important in the realm, had not till quite recent years acquired any legally defined status. WALPOLE, who for many years wielded immense power as head of the Government, was, we are told, unwilling to be called "Prime Minister," because in the popular mind of his time that term signified not a leader chosen by the people, but a favourite of the Court, and so, when charged with being "sole Minister" or "prime vizier," he declared with some emphasis that he was only one of the King's Council and had no more voice in affairs than any other member of the Cabinet. Later developments gave, however, to the chief Minister a preponderating influence, and the title

became generally used. LORD BEACONSFIELD described himself as "Prime Minister of England" in the Treaty of Berlin; but it was not till 1905 that the holder of the office acquired, as such, an official status. In that year King Edward VII by a royal warrant, which, after reciting that "the precedence of our Prime Minister has not been declared and defined by due authority," proceeded to declare "Our Royal Will and Pleasure that in all times hereafter the Prime Minister of Us, Our Heirs and Successors shall have place and precedence next after the Archbishop of York." The first statutory use of the title is in the Chequers Estate Act, 1917. It is of interest to recall that the new Prime Minister, in his former capacity as Chancellor of the Exchequer, had a link with the law in that, for the last few years he presided in the Lord Chief Justice's court on the morrow of St. Martin at the ceremony of the nomination of the sheriffs. In earlier days this was not, as it now is, the only link which the Chancellor of the Exchequer had with the courts, for it fell to him, even when a layman, to preside in the Court of Exchequer when the Barons were equally divided. On one occasion WALPOLE, when Chancellor of the Exchequer, had to spend three days in this duty and gave the casting vote in the decision.

Solicitors' Undertaking and Personal Liability.

THE attention of readers may be drawn to an opinion recently expressed by the Council of The Law Society on a point frequently arising in practice and to the course which the Council proposes to take in the matter. The question relates to the extent to which a solicitor incurs personal liability when giving an undertaking on behalf of a client. In the May issue of *The Law Society's Gazette* it is stated to be common knowledge that in order to facilitate completion of a sale or purchase a solicitor will give an undertaking, which nearly always the solicitor on the other side, knowing nothing of the client, would not accept, unless he thought he was getting an undertaking from the solicitor himself. In such cases the Council has expressed the opinion that the use of words such as "on behalf of my client" or "on behalf of the vendor" does not make the intention sufficiently clear, and it is considered that further or different words are necessary if the solicitor does not intend to accept personal liability. "Accordingly," it is said, "where, on the completion of a sale or purchase of property, a solicitor gives an undertaking 'on behalf' of his client without any further qualification, then in the Council's view, the solicitor should himself implement it, and if he fails to do so the Council will bring pressure to bear upon him to compel him to give effect to the undertaking as a matter of professional etiquette." The Council also adverts to the obvious desirability of it being made clear in the undertaking itself whether or not the solicitor is intending to accept personal liability. We desire to express our indebtedness to our contemporary for the opportunity afforded by the note referred to of bringing the matter to the notice of our readers.

The Marriage Bill: Concluding Stages in the Commons.

THREE amendments introduced into the Marriage Bill during the report stage in the House of Commons on 28th May should be shortly indicated. The first provides machinery whereby judicial separations can be obtained. The Solicitor-General explained that when the Bill was introduced there was a provision that two years after a decree of judicial separation either of the parties could convert the decree, on their own motion and without anything further, into a decree of divorce. That proposal did not commend itself to the committee, and instead the present amendment was brought forward. That machinery was particularly important during the first five years, when, under the Bill as it stood, no other relief by way of divorce could be obtained. The amendment omits the provision that a three-year period must elapse between the granting of a decree of judicial separation and the presenting of a petition for divorce, this being unnecessary now that the decree is a separate act altogether. The intention of the amendment, it was intimated, was to ensure that a petitioner who had obtained a judicial separation was not prevented in law from going on to get a petition for divorce. At present, under the Bill, within five years a party could not ask for a divorce for adultery, but he could go to the court and ask for a decree of judicial separation. It would, the Solicitor-General said, be necessary in many cases to do that because there was no other means by which a party could get a maintenance. Under the law at present it was at any rate highly arguable that a person, having gone to the court for a judicial separation on the ground of adultery, could not afterwards come and say he wanted a divorce instead. In the second place, the amendment provided that a court might treat the evidence given on an application for judicial separation as sufficient evidence on which to grant a decree of divorce.

Commencement of the Act.

THE other two amendments to which reference has been made in the preceding paragraph were introduced by Mr. W. P. SPENS, K.C. The first provides for the deletion of part of cl. 10 which is concerned with the extension of the jurisdiction of the Courts of Summary Jurisdiction and for the insertion of a provision that the court should not make an order unless it was satisfied that the applicant had not condoned or connived at, or by his or her wilful neglect or misconduct conduced to, the adultery, and that the application was not made or prosecuted in collusion with the other party to the marriage, or any person with whom it was alleged that adultery had been committed. The second amendment defers the coming into operation of the Bill until 1st January, 1938. It was explained in support of this amendment that the question had been raised in view of the fact that desertion was now to be made a ground for divorce. Numbers of British subjects had occupations abroad, or at places distant from what had been their homes, and their partners had for one reason or another refused to join them at the place where they carried on their occupations. In many cases technical desertion must have occurred, and such persons never dreamt that there would be a question of their being divorced. It was urged, therefore, that there should be a reasonable period between the date when the Bill became law and the date on which it came into operation in order that such persons might have ample opportunity of reviewing their position. The third reading was carried by the large majority of 153, 190 members voting for and thirty-seven against the measure. This result must, it is thought, be attributed in some degree to the alterations introduced into the Bill since the second reading.

Rent Restrictions Acts: Committee.

IN answer to a question asked in the House of Commons last Monday, Mr. BERNAYS, Parliamentary Secretary, Ministry of Health, indicated the terms of reference of the Rent Act Committee, of which brief mention should be made here in light of the legal character of its work. The terms of reference are: "To inquire into and report upon the present working of the Rent Restriction Acts and to advise what steps should be taken to continue or to terminate or to amend those Acts." Mr. BERNAYS also gave a list of the members of the Committee which have been appointed by the Ministry of Health and the Secretary of State for Scotland. These are LORD RIDLEY (Chairman), Councillor ARTHUR W. BRADY, Mr. HUMPHREY R. BRAND, Captain V. A. CAZALET, M.P., Mr. R. N. DUKE, Mr. C. GERALD EVE, Sir FRANCIS FREMANTLE, M.P., Mr. H. H. GEORGE, Mr. DUNCAN M. GRAHAM, M.P., Mr. D. S. MACDIARMID (Sheriff-Substitute of Lanarkshire), Alderman Sir MILES E. MITCHELL, Mr. F. MONTAGUE, M.P., JUDGE Sir MORDAUNT SNAGGE, Mrs. M. C. TATE, M.P., and Mr. H. GRAHAM WHITE, M.P. All communications should be addressed to the Secretary of the Committee at the Ministry of Health, Whitehall, S.W.1.

Land Registration: Companies and Corporations.

We have received from the Chief Land Registrar a notice to the effect that in consequence of the increase of applications for the first registration of Joint Stock Companies as proprietors of land, he has introduced a new form of application for the use of solicitors when applying for the first registration of a company or corporation. This form, it is stated, is designed to assist solicitors by drawing attention to the special points regarding which information is required by the Registry before the first registration of companies or corporations can be effected. If this information is supplied in the first instance on the form of application, the first registration of companies and corporations will be greatly facilitated and much subsequent correspondence and delay avoided. Form 1E is for use if the land is freehold, Form 2E on the assignment of a lease, and Form 3E where the company or corporation is an original lessee. Copies are obtainable from H.M. Stationery Office, price 2d. each, or 25 for 3s. We desire to express our indebtedness to the Chief Land Registrar for the foregoing information, the importance of which to practitioners need not be stressed.

Recent Decisions.

In *Wyndham* v. *Llewellyn* (*The Times*, 26th March), the plaintiff obtained judgment for the balance of a sum alleged to have been lent to the defendant for the purpose of a joint flight to the Cape. Hilbery, J., intimated that it was not an improbable bargain for the defendant to have made, and adverted to the importance of additional weight in a flight of the kind in question and to the suitability of the plaintiff by reason of her lightness and efficiency for the duties required of a second person on such enterprise.

In *Davies and Another* v. *Hosken* (*The Times*, 29th May), Porter, J., held that a solicitor's indemnity policy did not cover the insured against loss sustained as the result of a clerk fraudulently using for his own purposes money handed to him by clients for investment on mortgages, such being neither a "neglect, omission, or error" within the terms of the policy. See *Haseldine* v. *Hosken* [1933] 1 K.B. 822, 833. A short article on the points raised in this case appears on p. 448 of the present issue.

In *White* v. *Bijou Mansions Ltd.* (*The Times*, 29th May), Simonds, J., considered the effect of ss. 20, 50 and 52 of the Land Registration Act, 1925, and held that assignees of a lease who, in accordance with the terms thereof, had converted the demised premises into a series of small flats, took subject to a restriction, which bound the freeholder and had been duly registered, to use the premises as a private dwelling-house only; but that in the absence of a building scheme the estate owner of the neighbouring property was not in a position to enforce the restriction in light of the provisions of s. 5 of the Real Property Amendment Act, 1845, and s. 56 of the Law of Property Act, 1925: see *Re Ecclesiastical Commissioners for England's Conveyance* [1936] Ch. 430. An action by the plaintiff to enforce the restriction, the breach of which, it was found, was depreciatory of his property, was accordingly dismissed with costs.

In *Burnett* v. *Southern Rly. Co.* (*The Times*, 29th May), Swift, J., awarded the plaintiff £2,500 damages for personal injuries sustained as the result of a defective railway-carriage door lock. The defendants admitted liability and the only question was the amount of damages. The plaintiff's only visible injury was a bruised leg, but the mental shock was such that traumatic neurasthenia and claustrophobia ensued and, according to her medical evidence, there was a doubt whether she would ever completely recover or be able to resume her work.

In *South Suburban Co-operative Society Ltd.* v. *Orum* (*The Times*, 1st June), the Court of Appeal dismissed an appeal from an order in chambers by Lewis, J., directing the defendant in a pending libel suit to answer interrogatories requiring him to disclose the source of his information for statements made in the course of a signed letter to a newspaper. Scott, L.J., intimated that there was no sufficient ground of principle for extending the rule of practice according to which discovery of the names of a newspaper's informants ought not to be enforced (at any rate in the absence of special circumstances) so as to bring the writer of an alleged libellous letter to a newspaper "within the umbrella," and give him the special and exceptional immunity conferred by the rule on the newspaper.

In *Rex* v. *Parkinson* (*The Times*, 1st June), the Court of Criminal Appeal refused an application for leave to appeal against conviction and sentence by one who had been convicted before Charles, J., at Liverpool Assizes, of driving a motor car in a manner dangerous to the public and been sentenced to twelve months' imprisonment in the second division and disqualification from holding a driving licence for fifteen years. Lord Hewart, C.J., observed that, when looked at as a whole, the summing up appeared to be adequate and fair to the defence. Undoubtedly the sentence was severe, but in passing it the trial judge had acted within his discretion and the court could not dissent from what he had done.

In *Izzard* v. *Universal Insurance Co. Ltd.* (*The Times*, 2nd June) the House of Lords reversed a decision of the Court of Appeal (Slesser and Scott, L.JJ., Greer, L.J., dissenting), and restored that of MacKinnon, J., who upheld an award in the form of a special case in favour of the appellant, whose husband had been killed in a motor accident and who had obtained judgment for £850 and costs against the insured. The latter was subsequently adjudicated bankrupt and by the Third Party (Rights Against Insurers) Act, 1930, his rights against the insurance company to be indemnified under the policy were stated by the special case to be vested in the appellant. The House of Lords held that the policy which related to a commercial vehicle and excluded liability in respect of the death of any person "other than a passenger carried by reason of or in pursuance of a contract of employment" covered, on a proper construction of s. 36 (1) (*b*) (ii) of the Road Traffic Act, 1930, and the policy itself, the claim of the appellant whose husband was at the time of his death being carried in pursuance of a contract of employment and that the words were not to be restricted so as to cover only employment with the insured person. The hearing before MacKinnon, J., was reported in our issue of 4th April, 1936 (80 Sol. J. 266); that before the Court of Appeal in our issue of 26th September, 1936 (80 Sol. J. 754).

In *Lowick* v. *Lazarus* (*The Times*, 2nd June) the Court of Appeal, on the application of the defendants, granted a new trial of an action in which the plaintiff, Mrs. Lowick, was awarded £4,719 damages for alleged false imprisonment and malicious prosecution. The principal ground for the decision was that evidence which it had not been reasonably possible for the defendant to obtain at the former trial had since become available.

In *Rex* v. *Minister of Health; ex parte Hack* (p. 461 of this issue) a rule *nisi*, calling on the Minister of Health to show cause why a writ of prohibition should not be awarded to prohibit a public local inquiry into the application of a borough council for the confirmation of a compulsory purchase order was discharged with costs. It was argued that the notices which had been served on the applicant with respect to his properties were not such as were called for by s. 63 (1) of the Housing Act, 1935 (now s. 41 (1) of the Housing Act, 1936), in that they did not give the owner with sufficient particularity the facts which the local authority alleged as its principal grounds for being satisfied that the properties were unfit for human habitation; but Lord Hewart, C.J., intimated that the applicant had misconceived the scope and meaning of that sub-section.

Criminal Law and Practice.

THE MEANING OF "CONVICTION."

THERE is frequently to be found in arguments put forward in the criminal courts a tendency to confuse form with substance. This was recently illustrated in *R.* v. *Manchester Justices, ex parte Lever* [1937] W.N. 204, where one of the questions at issue was whether a conviction in a court of summary jurisdiction was complete before its entry into the register or whether the entry was an essential element in the conviction.

The case was an application for a rule *nisi* for a writ of certiorari to remove certain convictions into the Divisional Court to be quashed. Fines of 20s. and 10s. respectively had been imposed by the Bench on the applicant in his absence on 20th January, in respect of alleged offences under the Road Transport Act, 1927, and a Local Act, for leaving a motor car without lights and unattended in the street. The clerk to the justices wrote the amount of the fine on each summons, and the summonses were thereupon taken to the office where convictions made by the justices were recorded in the register of convictions and orders kept in accordance with s. 22 (1) of the Summary Jurisdiction Act, 1879.

The clerk in the office where the register was kept did not record the convictions, but instead, sent up word to the magistrates, who were still sitting, that the applicant already owed the amount of four previous fines, and that he had three times previously been guilty of delay in paying his fines. As a result of this the justices issued a warrant for his arrest in order that the defendant should be present while the matters raised by the summonses were dealt with. The summonses were therefore again heard on 23rd January by a differently constituted Bench, and the applicant pleaded guilty and was fined 40s. in respect of each offence charged. It was argued on behalf of the applicant that the convictions of 23rd January should be quashed on the ground that convictions were made, although not recorded, on 20th January, and he was therefore entitled to plead *autrefois convict* to the two summonses of 23rd January. The court, consisting of Hewart, L.C.J., and Humphreys and Singleton, JJ., upheld this view, and made the rule absolute.

The Lord Chief Justice, in the course of a learned judgment, referred to *Jones* v. *Williams*, 41 J.P. 614, which had been cited as an authority against the applicant's contention, and said that the point of substance in that case was that before a conviction was drawn up one of the justices who had dealt with the matter changed his view of the case, and Grove, J., said: "That would be a good reason for his refusing to draw up the conviction, there being a *locus penitentiæ*, the conviction not having been drawn up and signed." Lindley, J., said that the case could be treated as a part-heard case, as the action of the justices, though not amounting to an acquittal, did not amount to a conviction. The question in that case, said the Lord Chief Justice, was whether two justices were justified in reversing their first judgment, a rather different point from that at issue in this case.

His lordship then quoted s. 22 (1) of the Summary Jurisdiction Act, 1879, which provides: "The clerk of every court of summary jurisdiction shall keep a register of the minutes or memorandum of all the convictions and orders of such court . . . (4) The entries relating to each minute, memorandum or proceeding shall be either entered or signed by the justice or one of the justices constituting the court by or before whom the conviction or order of proceeding referred to in the minute or memorandum was made or had . . ." "In other words," his lordship said, "the making of the conviction is antecedent to the entry of it in the register," and "all that remained to be done on 20th January was to perform a formal act." The matter was concluded by *R.* v. *Sheridan* [1937] 1 K.B. 223, where the court held that there could be a conviction without a sentence, and *R.* v. *Grant*, 52 T.L.R. 676.

The court in those cases referred to *R.* v. *Blaby* [1894] 2 Q.B. 170, where Hawkins, J., said that it was evident that "conviction" in s. 9 of the Coinage Act, 1861, meant the finding of the jury that the person charged was guilty, and "convicted" meant "found guilty."

This new decision has greatly clarified the law. The old view, set out in "Paley on Summary Convictions" (1924), p. 437, defined "conviction" as a "record containing a memorial of the proceedings had under the authority of a penal statute before justices of the peace, or commissioners duly authorised to receive an information and proceed to judgment" (1 Salk. 377; Bosc. 7). "Archbold on Criminal Pleading Evidence and Practice," 29th ed., 1934, p. 228, refers to the old strict common law rule that a conviction consists of verdict, judgment and sentence, but adds that Co. Litt. 390 distinguishes "conviction" from "attainder" in that a man is "convicted" by verdict or confession, but not attainted until he has judgment, and also refers to *R.* v. *Blaby, supra.*

FOOT-PASSENGER CROSSINGS AGAIN.

The decision of the Kingston magistrates in *R.* v. *Shuter and Lebutt*, on which we commented in a recent article (81 SOL. J. 348), has now been reversed by the Surrey Quarter Sessions Appeals Committee. It will be remembered that the charges against the defendants were of failing to allow free and uninterrupted passage to a foot-passenger on the carriageway at a pedestrian crossing, and the question was whether a pedestrian standing at a refuge could be said to be on the carriageway. The magistrates held that the pedestrian was on the carriageway as the refuge was part of the carriageway, and they convicted and fined the defendants.

The chairman of the appeals committee, in allowing the appeal, said that as both defendants had testified that they did not see the pedestrian at all they could not have impeded her passage over the crossing. It is somewhat difficult to understand this finding of fact, unless it means that the committee found that the pedestrian was neither on the refuge nor on the crossing. Unfortunately the legal question whether a refuge is part of the carriageway or not was not dealt with. It would be highly useful for both pedestrians and motorists to have a clear decision on this point.

Solicitors' Indemnity Policies: Negligence and Fraud.

A POINT of considerable importance to practitioners was decided in the recent case of *Davies and Another* v. *Hosken* (*The Times*, 29th May), where the question before the court was whether or not a policy taken out by a firm of solicitors covered loss sustained as a result of fraud committed by one of their clerks.

By the policy in question the underwriters agreed to indemnify the plaintiff solicitors up to a named sum against loss arising from any claim or claims which might be made against them during the period covered by the policy by reason of any neglect, omission, or error whenever or wherever the same was or might have been committed or alleged to have been committed on the part of the plaintiffs or their predecessors in business, or any person thereafter to be employed by them during the subsistence of the policy in or about the conduct of any business conducted by or on behalf of the plaintiffs or their predecessors in business, in their professional capacity as solicitors. During the currency of the policy clients had handed to a clerk sums of money, for investment on mortgages, which the latter, who had been employed by the plaintiffs' predecessor and whom they had continued to employ, fraudulently converted to his own use. In these circumstances a claim was made under the policy which the underwriters refused to pay.

Readers may remember that a policy in similar terms was considered by the court in *Haseldine* v. *Hosken* [1933] 1 K.B. 822 (see the leading article at 77 SOL. J. 188). In this case, however, the party at fault was not an employee but the solicitor himself who, without realising the fact, entered into champertous agreement and claimed to be indemnified for the ensuing loss. Swift, J., adverted to the fact that a solicitor's business was a very onerous one, imposing on those who took charge of it great responsibilities, and requiring them to attain high professional standards. "Solicitors," the learned judge continued, "being human, are liable to make slips, and not unnaturally they desire to insure themselves against the consequences of those mistakes," and the making of a bargain honestly, and in ignorance of the fact that s. 11 of the Attorneys' and Solicitors' Act, 1870, forbade it, was "one of the very things which [the plaintiff] had insured himself against—the doing of something inadvertently, by error, by negligence, something which he ought not to have done." The Court of Appeal reversed this decision on the grounds (1) that the agreement being champertous was, therefore, illegal and contrary to public policy, and (2) that the loss arose from the plaintiff entering into a personal speculation and not from any neglect, omission or error committed by him in his professional capacity as a solicitor.

"It is puzzling," Scrutton, L.J., observed, "to know what the neglect, omission or error was. [The plaintiff] knew what he was doing in this sense that he made the agreements which clearly expressed what he intended. It is quite true that he appears to have been unaware that what he was doing was illegal or that he was committing a criminal offence; that, however, is not the kind of neglect, omission or error contemplated by the policy. I approach the policy in two ways: if making a champertous agreement is neglect, omission or error, it is contrary to public policy to insure against it . . . The other view is, and I think this is the more likely view, that the commission of a criminal act, knowing what the act is that is being committed, does not come within the words, 'neglect, omission or error'."

It is the last words which are of particular significance for our present purpose. The extent to which a person may, or must in motoring cases, insure against the civil effect of a criminal act raises difficult questions which cannot be discussed at this juncture, though attention may be drawn to a statement by Kennedy, J., in *Burrows* v. *Rhodes* [1899] 1 Q.B. 816, 823, which was approved by the Court of Appeal in the case to which attention is being directed, and to the decisions in *Tinline* v. *Whitcross Insurance Association* [1921] 3 K.B. 327, and *James* v. *British General Insurance Co.* [1927] 3 K.B. 311, concerning the accuracy of which Scrutton and Greer, L.JJ., refused to express an opinion one way or the other. Kennedy, J., in the statement referred to observed: "It has, I think, long been settled law that if an act is manifestly unlawful, or the doer of it knows it to be unlawful, as constituting either a civil wrong or a criminal offence, he cannot maintain an action for contribution or indemnity against the liability which results to him therefrom."

The new point which emerges from the decision in *Davies and Another* v. *Hosken* (*supra*), is that the proposition to the effect that the commission of a criminal act, knowing what the act is that is being committed, does not come within the meaning of the words "neglect, omission or error," in a solicitor's indemnity policy applies alike to the insured and the insured's servant, and thus a claim of the nature preferred in the case last mentioned must fail. In this case Porter, J., intimated that, looking broadly at the matter, an indemnity policy of the kind in question dealt with leaving undone things which ought to have been done rather than with doing things which ought not to have been done, and that the obtaining money by false pretences by the clerk was not covered by the policy. The argument that a distinction should be drawn between this case, where the fraud was committed by a servant of the insured, and *Haseldine* v. *Hosken*, where the error was committed by the insured himself, was not acceded to.

We may conclude our survey with a statement by the defendants' counsel that to be protected in the circumstances of the case the plaintiffs ought to have taken out a policy covering the fidelity and honesty of their servants.

Company Law and Practice.

Sections 54 and 59 of the Stamp Act, 1891.

IT is sometimes suggested that it is possible on the incorporation of a company to save stamp duty on the conveyance of property to the company by the vendor merely agreeing to sell to the company so as to give the company an equitable interest or by the vendor executing a declaration of trust in favour of the company, that is to say, by leaving the legal estate in the vendor.

The case of *The West London Syndicate* v. *The Inland Revenue Commissioners* [1898] 1 Q.B. 226, which is a case on s. 59 of the Stamp Act, was one where by agreement under seal the vendor agreed to sell the goodwill of the business of a hotel proprietor and licensed victualler, the lease of the hotel and stock, furniture, book debts, etc. It was a term of the agreement that the vendor should assign the lease to the purchasers and if the consent of the landlords to such assignment (which was necessary) could not be obtained, it was provided that the vendor should, at the option of the purchasers, execute a declaration of trust of the leasehold premises in their favour, and this latter course was in fact taken. It is to be noted that the provision for a declaration of trust was apparently merely a method of avoiding any possibility of forfeiture of the lease and not apparently aimed at an avoidance of stamp duty. Now s. 59 relates to contracts and agreements which are not sales but which are contracts for future sales, and it was held in this case by the Divisional Court (Grantham and Channell, JJ.) that the transaction did not become chargeable with *ad valorem* duty under this section. The section provides for an *ad valorem* duty where there is a contract for the sale of an equitable interest and for the sale of any property except lands and tenements. Channell, J., in his judgment said that the transaction was a contract to convey the legal interest with a term superadded that if the legal interest could not be conveyed by reason of the lessor's assent to the assignment not being obtained, then the purchasers should be at liberty to take, but not be bound to take, the equitable interest. Consequently the agreement was not chargeable with *ad valorem* duty; but he goes on to point out that in all probability the declaration of trust that was in fact made should have been stamped with *ad valorem* duty and that this was the point at which the Commissioners should have got their duty, as s. 54 probably applies to declarations of trust in pursuance of sale. As that question, however, was not before the court, no decision on it was come to. On appeal, reported in [1898] 2 Q.B., at p. 507, the majority of the Court of Appeal upheld the judgment of the Divisional Court on the question with which we are here concerned. In his judgment A. L. Smith, L.J., said: "It is common ground that that section (i.e., s. 59) was passed to saddle with stamp duty at the earliest possible moment contracts and agreements which come within the section so that the Crown should not have to wait for its duty until a more formal document might be executed and, if not executed, be deprived of the duty altogether which was found to be the case under the provisions of the older Stamp Act of 1870 (33 & 34 Vict., c. 97)." In his dissenting judgment Rigby, L.J., approved the principle on which the question was decided, but drew an inference outside the document on the facts, that the real bargain was for the sale of an equitable interest only, and in

his view the instrument ought therefore to have become charged under s. 59.

The case of *The Chesterfield Brewery Co.* v. *The Inland Revenue Commissioners* [1899] 2 Q.B. 7, was one where the shareholders of a company in voluntary liquidation entered into an agreement with the appellant company, whereby it was agreed that the shareholders of the company in liquidation should exchange their shares in that company for shares in the appellant company, and that on allotment of these shares they should hold their respective shares in the old company in trust for the appellant company.

It was held by the Divisional Court (Wills and Bruce, JJ.) that this agreement amounted to a declaration of trust, and as such a conveyance on sale to the appellant company of an equitable interest in the shares, and that therefore the agreement was chargeable under s. 54. In his judgment Wills, J., said that the view of Channell, J., referred to above in this article, was correct, that s. 54 applied to a transaction such as this. It was argued on behalf of the appellant company that the declaration of trust was merely superfluous and that the legal position would have been the same without such a provision by the ordinary rules of equity, but apparently even if the declaration of trust had not been express and there had merely been an agreement for value to transfer, it would have none the less been a declaration of trust and chargeable under s. 54. Wills, J., also inferred in the circumstances of the case that it had been the intention of the parties to avoid the expense of an actual transfer and he also said: "Further, speaking for myself, I entertain no doubt that this agreement is not only a 'conveyance on sale' under s. 54, but that it is also a contract for the sale of an equitable interest in property within s. 59."

It would therefore seem unlikely in the face of these authorities that it is practicable to design a scheme for the transferring of property to a company which is not caught either by s. 54 as a declaration of trust being a conveyance in pursuance of sale (even apparently where there is a bare agreement and the declaration of trust is implied), or under s. 59 as an agreement for the sale of an equitable interest in property, especially where it is open for the court to infer that nothing further was intended to be done and that the legal estate was intended to remain where it was.

Readers attention should be called to the note on "Alpe's Law of Stamp Duties," 20th ed., at p. 167, that "an acknowledgment that an agreement was entered into by one person on behalf of another if the agreement is one for the purchase of property is, it is believed in practice, viewed as a declaration of trust and chargeable accordingly.

Stock.

A correspondent has written in connection with the article on "Stock" in the issue of the 22nd May last, (81 SOL. J. 410), pointing out that it appears to be generally overlooked that *In re Home and Foreign Investment & Agency Co. Ltd.* [1912] 1 Ch. 72, was concerned exclusively with issues of stock made before the passing of the Companies Act, 1908, and that the Act of 1862 did not contain the comprehensive definition of stock which appears in the Act of 1908 and the present Act. This is of course true, and although I pointed out that the company's articles did not exclude Table A of 1862 I did not emphasise that distinction. He goes on to suggest that a company might increase its capital under the present Act by the creation of stock in certain circumstances. Now the Companies Act, 1929, defines "share," as I pointed out previously as, including stock except where a distinction between stock and shares is expressed or implied," s. 380. The question therefore is, as far as the writer of the letter's suggestion is concerned, to whether there is to be found in the provisions of the Act relating to an increase of capital such an implied distinction. Section 50 provides for various steps which may be taken to alter the capital of a company, and sub-s. (1) (*a*) gives power to increase a company's share capital by new shares of such amount as it thinks expedient, but it is only paid up shares which may be created as to stock by that section. It appeared therefore likely that this section distinguishes steps which may be taken in regard to shares and that which may be taken with regard to fully paid shares, and in any case there is nothing in the Companies Act, 1929, to provide that stock can ever be anything but fully paid. It is apparently beyond question therefore, that no issue of partly paid stock can validly be made and it also seems doubtful whether there is to be found anything in the interpretation section of the Companies Act, 1929, which will permit what was not formerly permitted to be done, namely, to issue directly fully paid up stock, and though there is at any rate no express prohibition of such a course, in the present state of the authorities, such a course would probably not be wise. The only way, therefore, of creating stock beyond any question of cavil is in following the provisions of s. 50 (*c*) of the Companies Act, 1929.

A Conveyancer's Diary.

Restrictions on Powers of Advancement.

THERE are some instructive points arising out of the recent case of *Re Craven's Estate, Lloyds Bank, Ltd.* v. *Cockburn* [1937] W.N. 236; 81 SOL. J. 436.

A testatrix who died in 1935 by her will gave her residuary estate to trustees upon trust as to one moiety thereof to hold the same on protective trusts in favour of her son, G. E. G. Cockburn, during his life, and after his death in trust for his children. The testatrix by a codicil declared as follows: "I declare that notwithstanding the trusts declared in my said will of and concerning the residuary trust fund the Bank" (the trustee) "may in its uncontrolled discretion at any time and from time to time at the request in writing of my son G. E. G. Cockburn but subject nevertheless as hereinafter provided raise the whole or such part or parts as the Bank shall think fit of Eric's" (i.e., G. E. G. Cockburn's) "share (defined in my said will) and pay or apply the same for the advancement or benefit of my said son G. E. G. Cockburn." There was a proviso to the effect that no advancement should be made "except for one or more of the following purposes, namely, (*a*) the purchase of a dwelling-house, (*b*) the purchase of a business or a share in a business, (*c*) the purchase of an annuity, (*d*) the payment of the expenses of an illness or serious operation."

The testatrix died in 1935, and her son, G. E. G. Cockburn, was desirous of becoming an underwriting member of Lloyd's, and applied to the trustees to exercise the power of advancement in the codicil by raising and paying the sum which it was necessary for him to deposit for that purpose.

The summons raised the question whether the advancement could be made under the express power in the codicil, having regard to the restrictions placed upon it by the testatrix, and alternatively asked that the trustees might be empowered to make the advancement under the powers conferred by s. 57 of the T.A., 1925.

Upon the first point, Farwell, J., held that the transaction proposed could not be said to be the purchase of a business or share in a business. His lordship pointed out that the deposit at Lloyds would be available to meet any liabilities which the son might incur as a member and whilst enabling him to carry on a profession gave him no share in a business. It is probable that if this particular application of a sum advanced had been thought of by the testatrix it would have been her intention that it might be made, but his lordship did not see his way apparently to stretch the meaning of the words used so far.

A more interesting point in the case was whether the powers conferred by s. 57 (1) of the T.A., 1925, applied. That enactment reads :—

Powers conferred by s. 57 of the T.A., 1925.

> " Where in the management or administration of any property vested in trustees, any sale, lease, mortgage, surrender, release or other disposition or any purchase, investment, acquisition, expenditure or other transaction, is in the opinion of the court expedient, but the same cannot be effected by reason of the absence of any power for that purpose vested in the trustees by the trust instrument, or by law, the court may by order confer upon the trustees either generally or in any particular instance, the necessary power for the purpose . . ."

The question for the decision of the court was whether the proposed transaction was " expedient."

Farwell, J., in giving his judgment on that point, said : " Then it is said that if the proposed transaction does not come within the power of advancement given to the trustees, the court ought to sanction such payment under s. 57 of the T.A., 1925. That section is framed in very wide terms, but for the court to exercise its power under it, it must be shown that the proposed transaction would be expedient for the trust as a whole." The learned judge concluded that however expedient the proposed transaction might be for the son advanced, it could not be held to be expedient for the trust as a whole. It could not in his lordship's view be expedient for the trust as a whole that half of it should be put in jeopardy.

It is interesting to contrast the decision in this case with that of the Court of Appeal in *Re White-Popham's Settled Estates* [1936] 1 Ch. 725, upon which I commented in a former article (80 SOL. J. 729).

In that case a tenant for life of settled land being desirous of paying off debts incurred by him in the upkeep of the estate prepared a scheme and applied under s. 64 (1) of the S.L.A., 1925, to the court to sanction the raising of the necessary amount by sale or mortgage of part of the settled land. The scheme provided that a policy of assurance on the life of the tenant for life for an amount sufficient to cover the sum raised should be effected and vested in the trustees and that the premium should be charged on and made payable by the trustees out of the rents and profits of the settled estates.

Section 64 (1) of the S.L.A., 1925, under which the application was made is as follows :—

> " Any transaction affecting or concerning the settled land or any part thereof or any other land (not being a transaction otherwise authorised by this Act or by the settlement) which in the opinion of the court would be for the benefit of the settled land, or any part thereof, or the persons interested under the settlement, may under an order of court, be effected by a tenant for life, if it is one which could have been validly effected by an absolute owner."

Eve, J., refused the application on the ground that he had no jurisdiction to make the order as the scheme was not for the benefit of the settled land.

The Court of Appeal reversed that decision.

Lord Wright, M.R., in a very short judgment, after stating the nature of the scheme said : " It is not alleged by anyone that this transaction is not desirable to carry out. It is in the interest of the applicant and other parties that he should not be made a bankrupt. The court has jurisdiction, and though it involves diminishing the settled land, it is nevertheless in the interest of the parties interested in the land."

Of course, the wording of s. 64 (1) of the S.L.A., 1925, is different from that of s. 57 (1) of the T.A., 1925, but I venture to think that the two provisions were included to accomplish the same purpose ; the former regarding settled land and the latter, land vested in trustees. That evidently is the view of the learned editors of " Wolstenholme and Cherry's Conveyancing Statutes," who in a note to s. 64, say : " This section is new and covers cases not within T.A., 1925, s. 57, which is applicable to property (not being settled land) vested in trustees."

The language employed in the two sections is, however, different. In s. 57 (1) of the T.A., 1925, the important words are : " is in the opinion of the court expedient," whereas in s. 64 (1) of the S.L.A., 1925, the expression is : " which in the opinion of the court would be for the benefit " of the settled land or parties interested. It is a pity that the language in the two enactments was not made to correspond.

It would appear that the powers of the court under s. 64 of the S.L.A. are somewhat wider than those under s. 57 of the T.A.

In the *White-Popham Case*, whilst it may have been " for the benefit " of the parties (or some of the parties) interested to sanction the scheme, it could hardly (at any rate upon the reasoning of Farwell, J., in *Re Craven*) be said to be " expedient " for those interested in the settlement as a whole. It is, however, a nice distinction.

I may remark with regard to the reasons given for this decision that Farwell, J., stressed the point that if he sanctioned the proposal made in *Re Craven* a part of the settled funds would be in jeopardy, as if used to meet the liabilities of the son as a member of Lloyd's (as it might be), the funds would to that extent be depleted. It would appear, however, that in trusting to the sum for which the life of the tenant for life in the *White-Popham Case* was to be insured, the funds would there likewise be in jeopardy. It might be that the policy would prove to be void on account of some misstatement or omission purposely or inadvertently made by the tenant for life in his proposal for the policy. The risk of that is not, after all, so remote as to be ignored, especially as the trustees would most likely have no knowledge enabling them to check the accuracy in all respects of the proposal.

I confess that I find it very difficult to reconcile the principle of these decisions.

Landlord and Tenant Notebook.

THE case of *Williams* v. *Williams and Others* (1937), 81 SOL. J. 435, C.A., while it concerns in the main the position of sheriffs' officers, sheds a good deal of light on the rights of sub-tenants whose interests are jeopardised by proceedings for possession taken against the mesne lessor.

Writ of Possession : Effect on Sub-Tenancies.

The plaintiff was a sub-tenant of part of certain premises ; the defendants were the superior landlord and some sheriff's officers. The superior landlord obtained an order for possession against his immediate tenant in forfeiture proceedings of which the plaintiff was given notice. He sued out a writ of possession and the other defendants executed it, ejecting the plaintiff. The latter, claiming to be a tenant protected by the Rent, etc., Acts, successfully brought a county court action for damages for trespass and a declaration and injunction. It was held on appeal that the writ protected both defendants from proceedings for trespass, and as a county court has no jurisdiction to grant an injunction, except as an ancillary remedy, judgment was given against the respondent.

For present purposes it should be emphasised that the decision of the Court of Appeal was based partly on the law of execution and partly on the law of jurisdiction, and not on the law of landlord and tenant in general or on the Increase of Rent Act in particular.

Under the law of landlord and tenant in general, two things are clear : that when a mesne tenant's interest is determined, the sub-tenancies carved out of it cease to exist,

and that in an action for possession by a landlord it is not necessary to make everyone in possession a defendant.

It is, of course, open to other parties to apply for leave to appear and defend under Ord. XII, r. 25, and in *Longbourne* v. *Fisher* (1878), 47 L.J. Ch. 379, Bacon, V.-C., expressed himself strongly as to the rights of an applicant.

When an order for possession is made and a writ of possession issued, it is also clear that it is the duty of the sheriff to turn everyone out of the premises. The remedy of a party claiming a right to possession is, it was pointed out in *Minet* v. *Johnson* (1890), 63 L.T. 507, C.A., not an application to set aside the writ (of possession), for there has been no irregularity, but to ask for the judgment and subsequent proceedings to be set aside on terms that he be added as defendant.

But what is the position of a protected sub-tenant? The following provisions of the Rent, etc., Restrictions Acts are in point: First, by s. 4 (5) of the 1923 Act an order or judgment against a tenant for the recovery of possession of any dwelling-house or ejectment therefrom *under this section* shall not affect the right of any sub-tenant to whom the premises or any part thereof have been lawfully sub-let . . . to retain possession under this section, or be in any way operative against any such sub-tenants. Secondly, "this section" commenced with the provision: "No order or judgment for the recovery of any dwelling-house *to which this Act applies*, or for the ejectment of a tenant therefrom, shall be made or given unless . . ." and then followed the well-known grounds on which possession might be obtained. The commencing sub-section has been replaced by s. 3 and Sched. I of the 1933 Act, but it should be noted that the same method of restriction, "no order or judgment . . . shall be given" is employed, and the qualification (to which the principal Acts apply) repeated. Thirdly, the provision of s. 15 (3) of the 1920 Act: where the interest of a tenant of a dwelling-house *to which this Act applies* is determined, either as the result of an order or judgment for possession or ejectment, or for any other reason, any sub-tenant to whom the premises or any part thereof have been lawfully sub-let shall . . . be deemed to become the tenant of the landlord on the same terms as he would have held from the tenant if the tenancy had continued. And lastly, reference may be made to the Increase of Rent, etc., Rules, 1920, r. 18, under which a county court must, before making an order for possession or ejectment for or from premises *to which the Act applies*, satisfy itself that such order may properly be made, regard being had to the provisions of the Act.

Whatever the object, it will be seen that by reason of the qualifying words which I have italicised, none of these provisions helps a sub-tenant of part of premises when the mesne tenancy is not affected by the Act. In *Williams* v. *Williams*, as mentioned, there was no need to go into the question of the plaintiff's rights to possession, but the matter has been touched upon in other cases.

Thus, in *Berton* v. *Alliance Economic Investment Co.* [1922] 1 K.B. 742, C.A., the question was whether lessees had broken a covenant not to permit or suffer by failing to join sub-under-tenants when suing the under-tenant for possession. The sub-under-tenants were weekly tenants at rentals which brought them within the Acts. The 1920 Act came into force just after the judgment was obtained against the under-tenant. Upholding the view taken by the lessees' solicitors, Bankes, L.J., said: "considering the Act of 1920 and the state of the authorities . . . there was enough to justify any prudent solicitor in advising his client that in proceeding against the under-tenants there was no certainty of succeeding but every probability of failure."

The next case in which the point was referred to was *Haskins* v. *Lewis* [1931] 2 K.B. 1, C.A., which is, however, again a case in which the protected sub-tenants were not made parties. The house was, moreover, one which at the time when the tenant lived there, was one to the whole of which the Acts applied, the question being whether the landlord could recover possession of part of it which the tenant had left and which had been converted to business premises. In the course of the argument Greer, L.J., asked: "Do you want an order to turn the sub-tenants out of possession? [I think the emphasis was on the word 'want,' used in the sense of 'require'] Under an order for possession the bailiff turns every one out who is on the premises," but when delivering judgment in favour of the landlord the learned Lord Justice said: "the order will not affect the rights of the sub-tenants which . . . are protected." Scrutton, L.J., said, "if it is said that an order for possession will enable the bailiff to turn out the sub-tenants, I think the answer is that the operation of s. 15 (3) of the 1920 Act shows that that result cannot happen." In his judgment, Romer, L.J., observed "the Act contemplates that an order may be made against a tenant notwithstanding possession of sub-tenants."

Lastly, an otherwise unreported case, *Murray* v. *Waltham Abbey Permanent Building Society and Sheriff of Essex*, decided in 1932 and set out in the latest edition of "Mather on Sheriffs and Execution Law," at p. 188, is in point. Except that proceedings were instituted in the High Court, the position was essentially similar to that obtaining in *Williams* v. *Williams*. An order for possession was obtained by mortgagees, in the High Court, without making the plaintiff, who was a protected sub-tenant of three rooms, a party. A writ of possession was sued out and executed, the sheriff's officers ejecting him. He claimed a declaration that he was tenant of the three rooms, and damages for trespass, for wrongful ejectment, and detinue. Lord Hewart, C.J., held that the writ protected the sheriff, and that the plaintiff, not having pleaded the Rent, etc., Restriction Acts, had no claim against the mortgagees, for his interest had gone.

The state of the authorities does not at first sight appear to have improved since *Berton* v. *Alliance Economic Investment Co.*, but I submit that the true position is as follows: When a sub-tenancy is carved out of a protected tenancy and an action for possession is launched or an order made or execution issued against the mesne tenant, the sub-tenant can sit tight; the order must have been made under s. 3 of the 1933 Act, so that s. 4 (5) of the 1923 Act saves the sub-tenancy, and s. 15 (3) of the 1920 Act makes him a tenant of the successful plaintiff. (It is assumed, of course, that the sub-letting was "lawful," i.e., not in breach of any covenant). But if the comprising property is as a whole outside the scope of the Acts, it is difficult to see what he can do. If he does nothing, then even if the proceedings be county court proceedings, not even r. 18 of the 1920 Rules obliges the court to take any notice of him, for the proceedings are not taken for the recovery of premises to which the Act applies. The order is not made under the 1933 Act, and s. 15 (3) of the 1920 Act applies only where the interest of a tenant to which that Act applies is determined. If the plaintiff in *Murray* v. *Waltham Abbey Permanent Building Society* had sought leave to defend, I doubt whether his claim to remain in possession could have been upheld.

It is possible to see other complications which may arise from the operation of the law of landlord and tenant as affecting sub-tenancies, e.g., a sub-tenancy may be granted to one entitled to diplomatic privilege, and if an order for possession were made against the grantor, a sheriff or bailiff might feel a little uneasy about turning the grantee out. But there could be no question that the sub-tenancy was gone and the grantee, though in no way at fault, would be a trespasser.

NOTICE.

Mr. T. H. Ekins, solicitor, of 12, Waterloo Street, Birmingham, and of The Sheiling, Stratford Road, Hall Green, desires to state that neither he nor his son, Mr. John Ekins, solicitor, of the same addresses, is, or ever was, in any way connected with, or related to, the solicitor of the same surname who was struck off the Rolls on 30th April, 1937.

Our County Court Letter.

WARRANTY ON SALE OF BULL.

In the recent case of *Turner* v. *Davis*, at Chippenham County Court, the claim was for £100 as damages for breach of warranty. The plaintiff's case was that, on the 6th March, 1936, he had bought at an auction a bull, which was warranted as right for stock, i.e., that it was healthy and suitable for breeding. In breach of the warranty, the bull was suffering from ballinitis, and had infected four heifers. On a re-sale without affirmation, on the 9th May, 1936, the bull had only realised £7 10s. 6d. The actual damage included £117 16s. for loss of milk from twenty-eight cows, which were with the four heifers, and £57 13s. for depreciation in value of, and loss of milk from, the four heifers plus the loss on re-sale of the bull. The amount in excess of £100 had been abandoned. The defence was a denial that the bull was unfit for stock purposes, and it was further contended that, under the sale conditions, the bull was bought with all faults, also that the alleged damage was too remote. His Honour Judge Kirkhouse Jenkins observed that both parties had acted in good faith, but the period of incubation was twenty-four hours, and the bull must have been affected before the sale. A bull with "burnt" was unsuitable for stock getting, but the question was whether the defendant was liable for breach of warranty. There were four methods of sale, viz. (1) by relying only on the printed conditions, (2) by selling without any conditions or affirmation, as on the 9th May, (3) by making an affirmation, but reserving the right to rely on the printed condition, viz., that the animal was sold with all faults, (4) by supplementing the main printed contract with collateral oral warranty, as on the 6th May. The first three methods imported the doctrine of *caveat emptor*, and, by placing possible buyers on their guard, resulted in cautious bidding and depressed prices. The fourth method produced a higher price for the defendant, but, having voluntarily crossed the frontier of safety into a broader contractual relationship than that afforded by the printed conditions, the defendant could not complain if he were held liable, even though he was ignorant of the bull's condition. Nevertheless the plaintiff might have mitigated the damages, e.g., by isolating the bull at once. In fact, a veterinary surgeon was not called in for twelve days, after the bull's condition was suspected, and a further fifteen days elapsed before his second visit. Judgment was given for the plaintiff for £48 and costs, with a stay of execution for twenty-eight days.

THE CONTRACTS OF DOMESTIC SERVANTS.

In *Robertson* v. *Falconer*, recently heard at Winchcombe County Court, the claim was for £2 5s. as damages for wrongful dismissal. The plaintiff's case was that in December, 1936, she was engaged as a domestic help at £52 a year. Another girl was subsequently engaged to assist, and the plaintiff agreed to accept only 15s. weekly. In January she was given a week's notice, but claimed a month's notice. The action was brought for £3, but 11s. 5d. had since been received, and the amended claim was for £2 8s. 7d. Nothing had been said about payment, or whether the engagement was weekly or monthly, but the custom was that either side was entitled to a month's notice to terminate the engagement. The defendant's case was that the plaintiff was engaged at £1 a week, subsequently agreed at 15s., and she was paid by the week. In view of the second arrangement, the plaintiff was only entitled to a week's notice. His Honour Judge Kennedy, K.C., held that the plaintiff, although paid by the week, was not subject to a week's notice. The post was taken, not as a temporary, but as a permanent, engagement, and it was not made clear to the plaintiff that the engagement was weekly. In the absence of any weekly agreement, judgment was given for the plaintiff, with costs. See *Moult* v. *Halliday* [1898] 1 Q.B. 125.

Practice Notes.

PRACTICE AND PROCEDURE.

In the King's Bench Division an appeal from a Judge in Chambers lies to a Divisional Court, "except in matters of practice and procedure" in which case appeal lies to the Court of Appeal: Ord. LIV, r. 23. Is an appeal from an order of a Judge in Chambers committing the defendant for contempt in disobeying an injunction not to publish a libel—is such an appeal one made in a matter of "practice and procedure"?

Upon the appeal by the defendant to the Court of Appeal the defendants took a preliminary point that this court had no jurisdiction: *Lever Brothers, Limited* v. *Kneale and Bagnall* (1937), 53 T.L.R. 661; 81 Sol. J. 377. Such a matter, upon first impression, is undoubtedly one of "practice and procedure"; and so it was held by Slesser, L.J., and Greene, L.J. (as he then was). A committed order is clearly part of the procedural machinery for the enforcement of judgments, or (to use the words of Slesser, L.J.), "a mode of proceeding by which a legal right is enforced." The language comes from the judgment of Lush, L.J., in *Poyser* v. *Minors* (1881), 7 Q.B.D. 329 (at p. 333). That case dealt with the meaning of the terms under the County Courts Act, 1856, but the reasoning is of general application. "'Practice' in its larger sense," said Lush, L.J., "...like 'procedure'...denotes the mode of proceeding by which a legal right is enforced, as distinguished from the law which gives or defines the right, and which by means of the proceeding the Court is to administer the machinery as distinguished from its product."

"'Practice' and 'Procedure,' as applied to this subject I take to be convertible terms." (at p. 334.) As Greene, L.J., lucidly explained, when a Court of Equity granted an injunction, it was not *functus*, for if the order were discharged, the plaintiff could get "that supplementary relief which would make the order effective." An order of committal was simply a method of enforcing an injunction; it was not "a new proceeding springing up in the light of the contempt" (at p. 663 of 53 T.L.R.).

SUMMARY JURISDICTION AND SOLICITORS.

The decision of the Court of Appeal (Scott, L.J., and Swift, J.), in *Brendon and Others* v. *Spiro and Others* (1937), 53 T.L.R. 667; 81 Sol. J. 396, shows that the court retains its summary jurisdiction over the solicitors on the record, even though, where an application is made against them, they have ceased to be on the record. As Patteson, J., incisively remarked in *Simes* v. *Gibbs* (1838), 6 Dowl. 310:—

> "If a man be once an attorney, he cannot get rid of the summary jurisdiction of this Court with respect to what he has done while an attorney by ceasing to be an officer of the Court. The rule is 'once an attorney always an attorney' for that purpose."

In an action claiming damages for fraudulent share-pushing, heard before Greaves-Lord, J., and a special jury, judgment against a number of defendants was entered for £11,364. Counsel for the plaintiffs thereupon asked for an order that the plaintiffs' costs should be paid personally by the two firms of solicitors who had acted for the different defendants but who had ceased to act as such, the one a week before the action was heard, the other as from the day of the trial. The solicitors, not being in court and not having received notice of the application, the learned judge directed that notice should be given to them, and that the matter should subsequently come before him, by motion. Upon the hearing of the application, it was urged on behalf of the particular solicitors that since, when judgment was given, they had ceased to be on the record, the learned judge had no jurisdiction to inquire into any professional misconduct alleged to have happened while they were on the record. Greaves-Lord, J., after more

than a day's discussion, holding that he had no jurisdiction, dismissed the application.

Scott, L.J., declared that there was no foundation for the contention that the jurisdiction over the conduct of solicitors on the record comes to an end if they cease to be on the record before an application against them be made. The court retains its summary jurisdiction to take disciplinary measures, which is preserved in the proviso to s. 5 (1) of the Solicitors Act, 1932. That section, having established the machinery of a hearing by the Disciplinary Committee of an application to strike the name of a solicitor off the Roll, expressly enacts :—

> " Provided that nothing in this section shall affect the jurisdiction which, apart from the provisions of this section, is exercisable by the Master of the Rolls or any judge of the High Court on solicitors."

See " Cordery on Solicitors " (1935), 4th ed., pp. 224, 225 ; *The Annual Practice* (1937), pp. 2334, 2335.

Under the old practice of the Court of Chancery, when a bill filed without authority had been dismissed with costs and the plaintiff had been attached for non-payment of the costs, the solicitor who had wrongly used the plaintiff's name was ordered to indemnify him. This practice has not been altered either by the Judicature Acts or by the Rules of the Supreme Court. Thus, where a company named as co-plaintiffs in an action served a notice of motion to strike out their name, and asked that the solicitors who had issued the writ might be ordered to pay the company's costs, the court made the order although, before the motion was heard, the solicitors had served a notice wholly discontinuing the action : *Gold Reefs of Western Australia, Ltd.* v. *Dawson* [1897] 1 Ch. D. 115, per North, J. (at p. 118).

In *Simes* v. *Gibbs*, *supra*, judgment had been signed and execution issued ; although the cause was at an end, an attorney was ordered to deliver up a bill of exchange. In that case he had not merely ceased to be on the record, but he had actually ceased to be an attorney.

The Court of Queen's Bench in *Re Francis Blake* (1860), 30 L.J. Q.B. 32, explained the broad basis of this summary jurisdiction. It was there held that where an attorney has been guilty of gross misconduct the court will interfere summarily, even though the misconduct arose in a matter in which the attorney was not acting as such. This is an even stronger authority than *Simes* v. *Gibbs*, for the court hereby assumes to cast an eye over the whole professional conduct of its officers, even when they are not acting in that capacity.

> " We are called upon," said Cockburn, C.J., " for the protection of suitors and others who would give credit to him as an attorney, to visit such misconduct with summary punishment " (at p. 34).

To Wightman, J., it was fundamental that—

> " Those who are accredited as officers of the court should be above suspicion " (*ibid.*).

The jurisdiction, according to Blackburn, J., was—

> " To ascertain whether the person accredited as an officer of the court is unfit to be so accredited " (at p. 35).

In *Re Hulm* v. *Lewis* [1892] 2 Q.B. 261, the court, in the exercise of its summary jurisdiction, ordered an unqualified person who had obtained money and documents by pretending to be a solicitor, to deliver up the money and documents, and upon his disobedience, to be attached. Collins, J., declared :—

> " If this person were a solicitor, the court could compel him to restore the money and documents, and the court must have the same power when he is shown to have obtained possession of the money and documents by fraudulently pretending to be a solicitor " (at p. 263).

Finally, in *Re Dunn* [1911] 1 K.B. 966, the Court of Appeal upheld an order of Darling, J., directing a solicitor personally to pay the costs of an action where the defendants against whom judgment had been given were a non-existent company.

Upon a review of these authorities, Scott, L.J., accordingly, in *Brendon and Others* v. *Spiro and Others*, *supra*, ordered the case to go back to Greaves-Lord, J., for him to deal with in such manner as he should think proper ; the solicitors were to be informed what was the case against them, which they should have an opportunity of meeting. It was for the learned judge himself to decide whether the matter should be proved by affidavit or by oral evidence, and whether fresh evidence was necessary or his notes of the case were sufficient.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

Housing Act, 1936. Points in Practice : Question 3429.

Sir,—I think that the answer to the second part of this question as given in your issue of the 15th inst. is likely to be misleading.

Firstly : I understand that there is no necessity to claim compensation as in proper circumstances it will be paid whether or not the claim is made.

Secondly : The payment will not be made unless the Minister certifies that the property has been well-maintained ; and

Thirdly : If a payment is authorised it is made to the person responsible for keeping it in repair unless some other person can satisfy the local authority that the good maintenance is attributable to such person.

In the case in point, it would appear futile for " B " to claim compensation if the properties are let on full repairing leases.

It is with great diffidence that I, as a chartered surveyor, submit my views on a legal question such as this, but it is one upon which I have had some experience.

Kingsland Road, E.8. VICTOR C. DONALDSON.
24th May.

[This letter has been shown to our contributor and he has replied as follows : The answer to the second part of the question merely indicated that the section under which compensation could be claimed was s. 42 (1). The difficulties in B's way would appear from a perusal of the other sub-sections. It might be futile for B to claim compensation, on the further assumption introduced by the correspondent, but this did not appear in the original query. A full repairing lease would not necessarily have relieved B from maintaining the property, as the lease might have become vested in a person against whom a judgment for breach of covenant would be abortive.—ED., *Sol. J.*].

Obituary.

MR. HAY HALKETT.

Mr. John Gilbert Hay Halkett, retired Metropolitan Police Magistrate, died in London on Monday, 31st May, at the age of seventy-four. Mr. Hay Halkett, who was educated at Cheltenham and St. John's College, Cambridge, was called to the Bar by the Inner Temple in 1887, and joined the North-Eastern Circuit. He was appointed Stipendiary Magistrate at Kingston-upon-Hull in 1901, and in 1915 he was nominated to the Metropolitan Bench. He served in turn at Greenwich and Woolwich, Lambeth and Marylebone, before being transferred to Westminster in 1932. He retired in 1935.

MR. J. CHAPMAN.

Mr. James Chapman, solicitor, of Manchester, died at Hale, Cheshire, on Wednesday, 2nd June, at the age of seventy-eight. Mr. Chapman was admitted a solicitor in 1897.

MR. N. T. CROMBIE.

Mr. Norman Thomson Crombie, solicitor, a partner in the firm of Messrs. Crombies & Wilkinsons, of York, died in a nursing home at York on Tuesday, 25th May, at the age of sixty-three. Mr. Crombie was admitted a solicitor in 1898, and entered his father's firm, which then became known as George Crombie & Sons. In 1932 he went into partnership with Mr. K. E. T. Wilkinson, who practised as Wilkinson and Johnstone, and the partnership became known as Crombies and Wilkinsons. Mr. Crombie was a member of the Committee of the Yorkshire Law Society and also of the Poor Persons' Committee. He was a provincial Director of the Solicitors' Benevolent Association, and was Chairman in 1933.

MR. G. MARSH.

Mr. George Marsh, solicitor, a partner in the firm of Messrs. Vandercom, Stanton & Co., of Spring Gardens, S.W., died in London on Saturday, 29th May, at the age of sixty. Mr. Marsh was admitted a solicitor in 1919.

MR. A. C. TWEEDY.

Mr. Arthur Clement Tweedy, solicitor, head of the firm of Messrs. W. C. A. Williams & Tweedy, of Monmouth, died at Monmouth, on Saturday, 29th May, at the age of seventy-two. Mr. Tweedy was admitted a solicitor in 1889. He recently retired from the office of Town Clerk of Monmouth, and also from that of Magistrates' Clerk at Monmouth. He had been Registrar of Monmouth County Court for many years.

Books Received.

The Local Government Annual and Official Directory, 1937. Forty-sixth year of publication. London: The Local Government Journal Office. 4s. 6d., post free.

Principles of the Common Law. By A. M. WILSHERE, M.A., LL.B., of Gray's Inn and the Western Circuit, Barrister-at-Law. Fourth edition. 1937. Demy 8vo. pp. lxvi and (with Index) 932. London: Sweet & Maxwell, Ltd. 30s. net.

The Students' Conflict of Laws. By E. LESLIE BURGIN, LL.D. (Lond.), solicitor, formerly Principal and Director of Legal Studies to The Law Society, London, and ERIC G. M. FLETCHER, LL.D., B.A. (Lond.), solicitor. Third edition. 1937. Royal 8vo. pp. xvi and (with Index) 347. London: Stevens & Sons, Ltd.; Sweet & Maxwell, Ltd. £1 net.

The Mercantile Law of Scotland. By ALLAN M'NEIL, M.A., S.S.C., and J. A. LILLIE, K.C., LL.B., advocate, and of the Middle Temple, Barrister-at-Law. Third edition. 1937. Demy 8vo. pp. xxii and (with Index) 380. Edinburgh: W. Green & Son, Ltd. 10s. 6d. net.

Goodwill as a Business Asset. By H. E. SEED, A.C.A., A.S.A.A. 1937. Demy 8vo. pp. xxix and (with Index) 472. London: Gee & Co. (Publishers), Ltd. 12s. 6d. net.

Tax Cases. Vol. XX. Parts IX and X. 1937. London: H.M. Stationery Office. Per part, 1s. net.

The Complete Law of Town and Country Planning and the Restriction of Ribbon Development. Second edition. 1937. By H. A. HILL, B.A., of Gray's Inn, Barrister-at-Law, and A. W. NICHOLLS, M.A., B.Litt., of Gray's Inn, Barrister-at-Law. Royal 8vo. pp. xxxvi and 650 (Index, 32). London: Butterworth & Co. (Publishers), Ltd. 30s. net.

Annual Survey of English Law, 1936. Royal 8vo. pp. xl and (with Index) 431. 1937. London: Sweet & Maxwell, Ltd. 10s. 6d. net.

Newton on Blackstone. 1937. Demy 8vo. pp. 26. Philadelphia: University of Pennsylvania Press. London: Humphrey Milford, Oxford University Press. 9s. net.

To-day and Yesterday.

LEGAL CALENDAR.

31 MAY.—On the 31st May, 1839, the Court of Queen's Bench delivered its momentous judgment in the case of *Stockdale* v. *Hansard*, holding that printers publishing a report of Parliamentary proceedings by order of the House of Commons were not protected by privilege from the consequences of a libel. Damages were accordingly awarded against Messrs. Hansard. Comedy entered into the matter when the Sheriff of Middlesex, having attempted to enforce the judgment, was committed for contempt under a warrant of the Speaker, and the court held that it could not order his release.

1 JUNE.—"Lord Coleridge had appropriated half of the public gallery and had given tickets to his friends. The Prince of Wales occupied a chair at the part of the bench between the judge and the witness box. Lady Coleridge sat close to her husband's right hand and had the duty of checking the occasional inclination to sleep which had at this time become noticeable. The rest of the bench was filled with a group of fashionable ladies in front of whom . . . one of the judge's daughters-in-law sat with a sketch book." So did Sir Edward Clarke describe the opening scene of the great Baccarat Case on the 1st June, 1891.

2 JUNE.—Sir Peter Arden, who died on the 2nd June, 1467, is chiefly notable for having held two high judicial offices simultaneously for a very long period. Having become, in 1448, Chief Justice of the Common Pleas and Chief Baron of the Exchequer, he continued to fill the dual role till 1462. After that, he retained his Common Pleas position only. Part of his remuneration was a tun of wine.

3 JUNE.—On the 3rd June, 1824, Monsieur Cheymal, a retired cavalry officer, was tried at the Bordeaux Assizes for the murder of his wife. She belonged to a distinguished Spanish family of Burgos, and while serving with the French army in the Peninsular War he had married her in romantic circumstances, including an escape from a convent in which her parents had confined her. For over ten years he had lived happily with her, not suspecting that she was carrying on an intrigue with his best friend, till one day, returning home unexpectedly, he caught them *flagrante delicto*. In a frenzy he struck at the lover with his sword, but missed and killed his wife. At the trial he was found guilty, but given the minimum punishment of a year's imprisonment.

4 JUNE.—In May, 1833, a subversive political meeting drew to Calthorpe Street, Cold-bath Fields, a mob of about 4,000 in defiance of a Home Office ban. A strong force of police succeeded with difficulty in dispersing them, but in the riot a constable was killed and others wounded. On the 4th June, a man named George Fursey was tried at the Old Bailey for having stabbed Sergeant Brook. There was a tremendous amount of conflicting evidence, the prosecution alleging that the police had acted with exemplary moderation and the defence alleging that they had hit out indiscriminately with their truncheons without any provocation. The hearing lasted till after two in the morning and ended with an acquittal.

5 JUNE.—On the 5th June, 1800, Mr. Justice Buller died at the comparatively early age of fifty-four. He was buried in the churchyard of St. Andrew's, Holborn.

6 JUNE.—On the 6th June, 1866, Judah Benjamin was called to the English Bar at the age of fifty-five, six months after his admission to Lincoln's Inn. Behind him lay a distinguished career as an advocate in America and as a member of the Confederate Government during the Civil War. Now, an almost penniless political refugee, he embarked on a new life which before his death eighteen years later was to bring him success and honour and repaired his fortunes.

THE WEEK'S PERSONALITY.

For several months before his death, Mr. Justice Buller had been too ill to sit in court. He delayed tendering his resignation partly by reason of the solicitations of his colleagues and partly in the hope that summer might restore his health, and at last he visited the Lord Chancellor to arrange for his immediate retirement. That day he called on several friends and after dinner played a game of piquet with his niece. She noticed that he looked unwell and he admitted that he felt faint, going to bed soon afterwards. Early the next morning he died without a groan. "In person he was below the middle stature and of spare habit, but his countenance was remarkably handsome and beaming with intelligence. The large lustrous eye and commanding forehead gave noble witness of the soul within. In private life he united an amiable temper with the most frank and conciliating manners. His flowing courtesy was calculated to put the young and diffident at their ease and make those of less polished demeanour feel quite at home in his company. . . . He was the active and zealous patron of many young men in the profession, whose studies he promoted without regarding his own time or trouble with the kindest attention."

A LOSS TO TRADITION.

The resignation of Mr. Justice Horridge now that Avory, J., is at rest and Eve, J., liberated from law to follow rural fancies, leaves the High Court deprived of the familiar feeling of an almost patriarchal tradition. Far distant now seems the year when Thomas Horridge and Horace Avory, elevated to the Bench within a day of each other, inspired the rhyme in celebration of the event:—

"'Well brother, well,' said Mr. Justice Avory,
'We're judges now; I've gained extensive knowledge
Of crime and criminals,' 'And so of knavery
You'll be the scourge,' said Mr. Justice Horridge."

Both belonged to a tradition of quiet judicial efficiency which did not lend itself to satisfying the journalistic avidity for anecdotes, but each displayed on occasion the flair for the apt word. Thus, once before Horridge, J., there came an action brought by Sam Mayo, the comedian, against a colleague who was alleged to have borrowed one of his songs. He recited it in the witness-box, each verse ending with the words "I've only come down for the day." Before it had gone very far, however, a settlement was reached, and the judge remarked: "He will now be able to add another verse with regard to this Court—that he only came down for the day."

THE SILENT CHILD.

Though a K.C. removed his wig to put her at her ease, and Swift, J., persuaded her to accept a sweet from his hand, nothing could induce a two-year-old plaintiff who appeared recently in the King's Bench Division to utter a word on her own behalf. The dilemma of her silence recalls a tale of the famous Mr. Justice Park's examination of a very little girl offered as a witness in his court, to see whether she understood the nature of an oath. "Little girl," he began solemnly, "attend to me." "Yes, sir," she said, with a curtsey. "Have your parents given you a religious education?" "Yes, sir." "You know the Ten Commandments, do you?" "Yes, sir." "You're a very good child indeed. And of course you have learned the Apostle's Creed?" "Yes, sir." "I'm very happy to hear it. No doubt you have also got the Lord's Prayer by heart?" "Yes, sir." "That's a very good girl. Now, my excellent child, just tell us what you do before going to bed?" Here the young innocent blushed and was silent. "Don't be ashamed, my good girl," said the judge encouragingly. "Pray tell us what you do every night just before going to bed." Still silence. "Pray don't be afraid to answer the question." "Tell his lordship," prompted her father. "Aye, come, do tell us," added Park. At last the child looked up innocently, saying: "Put off my clothes and put on my night-cap."

Notes of Cases.

Judicial Committee of the Privy Council.

Musammat Vaishno Ditti *v.* **Musammat Rameshri & Others.**

Lord Maugham, Sir Shadi Lal and Sir George Rankin.
18th March, 1937.

INDIA—PRACTICE AND PROCEDURE—PROCEEDINGS UNDER PRELIMINARY DECREE FOR TAKING OF ACCOUNTS—WHETHER EXECUTION PROCEEDINGS—FAILURE TO PAY COURT FEE—JURISDICTION TO DISMISS SUIT—COURT FEES ACT (No. VII of 1870), s. 11.

Appeal from a decision of the Judicial Commissioner, N.W. Frontier Province, Peshawar.

A plaintiff (the present appellant) having been successful in certain legal proceedings, was by Order in Council granted a decree entitling her to a fourth share in certain movable and immovable property, and a decree for rendition of accounts in respect of that share, together with rents, profits and interest. Accordingly she applied to the Court of the Judicial Commissioner under Ord. 45, r. 15 (2), of the Civil Procedure Code, 1908, for the carrying into effect of the decrees, her application being treated and intended as an execution application. The appellant's share of rents and profits having been duly ascertained proved to be in excess of the sum on which she had paid the regulation court fee. She failed to pay the additional fee, whereupon the matter was adjourned for some two months, after which, the additional fee still not having been paid, an acting Senior Subordinate Judge dismissed her suit, purporting to act under s. 11 of the Court Fees Act, 1870. The Judicial Commissioner having upheld that decision, the present appeal was lodged. Section 11 of the Act of 1870 is in two paragraphs, of which the first provides for postponement of suits in case of non-payment of fees in suits "for mesne profits or for immovable property and mesne profits, or for an account." The second paragraph deals with non-payment where an amount of profits is left to be ascertained "in the course of the execution of the decree," and provides for additional payment of court fee if the amount found due is greater than that on which payment has been made. That second paragraph concludes with the words "If the additional fee is not paid within such a time as the court shall fix, the suit shall be dismissed."

Sir GEORGE RANKIN, delivering the judgment of the Board, said that, under the Civil Procedure Code, 1908, the proceedings under a preliminary decree for accounts to obtain a final decree for money were proceedings in the suit, and not proceedings in execution in the technical sense in which that word was used in the Code. It was clear that in cases within the first paragraph of s. 11 of the Act of 1870 non-payment of the balance of court fee merely postponed the date on which the decree could be executed. The account directed to be taken by the Order in Council here was not, and was not described as, an account of mesne profits. The second paragraph of s. 11 therefore gave no jurisdiction to dismiss the appellant's suit. That was not now contested, but it was said that the concluding words of the second paragraph [quoted above] also referred to the first paragraph. That argument was contrary to *Perianan Chetti* v. *Nagappa Mudaliar* (1906), I.L.R. (Madras) 32, and was rejected in *Ganesh Chandra Mandal* v. *Promotho Nath Gan Guli* (1911) Indian Cases 73, with both of which decisions their lordships agreed. The appeal must be allowed and the order dismissing the appellant's suit must be reversed.

COUNSEL: *J. Nissim*, for the appellant; *J. M. Parikh*, for the respondents.

SOLICITORS: *Hy. S. L. Polak & Co.; Stanley Johnson & Allen.*

[Reported by R. C. CALBURN, Esq. Barrister-at-Law.]

Major George Edmund Mager, M.C., R.F.A., solicitor, of Richmond, Surrey, left £21,103, with net personalty £20,962.

Court of Appeal.

Merchants' and Manufacturers' Insurance Co. Ltd. *v.* Davies and Another.

Greene, M.R., and Slesser, L.J. 3rd May, 1937.

INSURANCE—MOTOR-CAR—CLAIM TO AVOID POLICY ON GROUND OF NON-DISCLOSURE—MOTORING CONVICTIONS—DISCOVERY SOUGHT—OBJECT TO SHOW PRACTICE OF INSURERS—ROAD TRAFFIC ACT, 1934 (24 & 25 Geo. 5, c. 50), s. 10.

Appeal from a decision of Goddard, J.

The plaintiffs, issued to the defendant an insurance policy extending to cover (*inter alia*) liability for injury to third parties caused through a certain motor-cycle. The defendant while riding it was involved in an accident in which a third party was injured, thereby acquiring a cause of action for damages against him. The plaintiffs brought this action to obtain the benefit of the Road Traffic Act, 1934, s. 10 (3), asking for a declaration that they were entitled to avoid the policy on the ground that it had been obtained by non-disclosure of material facts or representation of false facts in some material particulars. The non-disclosure alleged was non-disclosure of two convictions the defendant had suffered: (1) driving a motor-car without a licence for which he was fined ten shillings in 1931; (2) driving a motor-cycle in a dangerous manner for which he was fined £3 2s. 6d., his licence being endorsed. The misrepresentation alleged was that in answer to a question in the proposal form relating to motoring offences he had said that his only conviction was for driving without tail lights. The defence denied the materiality of the facts alleged, and alleged that in similar cases "where disclosure of the facts have been made to them, the plaintiffs have neither refused the risk nor attached any special conditions to the policy (Particulars hereunder cannot be given until after discovery)." The defendants sought an order for disclosure of all correspondence, documents and files in the plaintiffs' possession or power relating to policies granted or refused by them where disclosure had been made of similar convictions as mentioned in the statement of claim. The plaintiffs sought an order for striking out the paragraph of the defence relating to this point. Goddard, J., dismissed the applications and the plaintiffs and defendants appealed.

GREENE, M.R., in giving judgment, said that assuming that in ascertaining the materiality of any fact, evidence of the practice of prudent insurers was admissible, the words in the paragraph of the defence in question amounted only to pleading evidence of want of materiality and should be struck out. As to the application for further discovery, it had been argued that the materiality of the facts in question would at the trial be an issue on which the practice of prudent insurers dealing with similar cases would fall to be considered, and that the plaintiffs' own practice might be examined, relevant evidence being found in the documents, discovery of which was sought. Counsel for the defendants had asked leave to amend the application, describing the documents as "relating to proposals or applications for insurance of motor-car and motor-cycle risks made to them (the plaintiffs) by persons disclosing the fact that they have been once convicted of driving a motor-car or motor-cycle without a licence and once convicted of driving a motor-car or motor-cycle in a dangerous manner, or of one or other of such offences." But the mere fact that in cases where similar convictions (not necessarily accompanied by the same punishments) as those now in question had been disclosed to them by applicants for insurance they had not declined the risk or raised the premium would not advance the defendants' case to any such material extent as to compel the court to make a novel and oppressive order. There was a great difference between accepting a risk after a frank disclosure and a case where no disclosure had been made. Underwriters might well regard as material a fact concealed from them and yet be prepared to disregard it if a frank disclosure were made. Proof that the plaintiffs had adopted the latter course led nowhere. If disclosure had been asked, or could have been asked, of documents relating to cases where the plaintiffs, after discovering the existence of similar convictions which an applicant had failed to disclose, had yet issued a policy on ordinary terms, the position might have been different. But an application for discovery of this kind could only be made if supported by an affidavit under Ord. XXXI, r. 19 A (3), which it was not suggested could be done here. The plaintiffs' appeal succeeded and the defendants' failed.

SLESSER, L.J., agreed.

COUNSEL: *Soskice; Fox-Andrews* and *S. Chapman; T. Turner.*

SOLICITORS: *Crockers; Vizard, Oldham, Crowder & Cash; Official Solicitor.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Appeals from County Courts.

West *v.* Automatic Salesman Ltd.

Slesser, L.J., du Parcq and Simonds, JJ.
28th and 29th April, 1937.

INTERPLEADER — EXECUTION — GOODS SEIZED — ISSUE BETWEEN CLAIMANT AND CREDITOR—NO CLAIM FOR DAMAGES—SUBSEQUENT ACTION FOR DAMAGES—WHETHER MAINTAINABLE—COUNTY COURTS ACT, 1888 (51 & 52 Vict., c. 43), s. 157—COUNTY COURT RULES, 1903 to 1935, Ord. xxvii, r. 8.

Appeal from Salford County Court.

The defendants having recovered judgment in the County Court against one W for a debt, levied execution for a sum of £4 5s. at the house where he lived, seizing some furniture. The plaintiff claimed it as her property, and an interpleader issue was directed in which she claimed the articles from them, but not damages. The issue was decided in her favour, and in the present action she claimed damages for wrongful entry on her premises and wrongful seizure of the goods. The learned judge held that there had been personal interference by the defendants in the execution and that the plaintiff had suffered damage, but gave judgment against her on the ground that she should have claimed damages in the interpleader proceedings.

SLESSER, L.J., dismissing the plaintiff's appeal, said that the County Courts Act, 1888, s. 157, showed that the judge had an obligation to adjudicate, not only with regard to the claim, but also with regard to damages (*Death* v. *Harrison*, L.R. 6, Ex. 15; *Salbstein* v. *Isaacs & Son* [1916] 1 K.B. 1; Ord. xxvii, r. 8). Parties to litigation must bring forward their whole case (*Henderson* v. *Henderson*, 3 Hare 114).

DU PARCQ and SIMONDS, JJ., agreed.

COUNSEL: *Stabb*; *Hale.*

SOLICITORS: *C. J. Lewis*, for *R. Caradoc Roberts & Co.*, of Manchester; *Reid, Sharman & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Unsworth *v.* Pease and Partners Ltd.

Greene, M.R., Romer and Scott, L.JJ.
11th May, 1937.

WORKMEN'S COMPENSATION—INJURY—TOTAL INCAPACITY—CONCURRENT CONTRACTS OF SERVICE—MINE "CHECK-WEIGHER"—COLLECTOR OF SUBSCRIPTIONS FROM UNION MEMBERS—COAL MINES REGULATION ACT, 1887 (50 & 51 Vict., c. 58)—WORKMEN'S COMPENSATION ACT, 1925 (15 & 16 Geo. 5, c. 84), s. 10 (ii).

Appeal from Thorne County Court.

A collier employed by the defendants having been injured by an accident in their colliery in May, 1936, was totally

incapacitated and was paid compensation until July at the rate of 18s. 9d. a week, based on his pre-accident earnings as a collier of £1 4s. 8d. a week. Besides this amount, he also earned £65 5s. 8d. as a sub-checkweighman at the colliery and £9 15s. 5d. as remuneration for collecting subscriptions from members of his union. By the terms of his employment with the defendants he was paid the current rate of wages for his work as a collier and allowed time off for which he was not paid by them, to act as sub-checkweighman and to collect subscriptions. In the former case he was remunerated out of the checkweigh fund contributed to by the coal-face workers in the mine and in the latter by his branch trade union. The learned county court judge held that the sums so earned were earnings under concurrent contracts and should be taken into account in computing the man's pre-accident earnings under the Workmen's Compensation Act, 1925, s. 10, so as to bring the amount payable up to 30s. a week.

GREENE, M.R., dismissing the employers' appeal, dealt with the remuneration earned by the man as a checkweigher and referred to *Wild* v. *John Brown & Co. Ltd.* [1919] 1 K.B. 134 and the Coal Mines Act, 1911, s. 16, and the Coal Mines Regulation Act, 1887, s. 12 (1). With regard to the collecting of subscriptions, he was employed by his union. The sums in question were earned under concurrent contracts of service and should be taken into account.

ROMER and SCOTT, L.JJ., agreed.

COUNSEL: *Beney*; *Neal*.

SOLICITORS: *Johnson, Weatherall, Sturt & Hardy*, for *Parker Rhodes, Cockburn & Co.*, of Rotherham; *Corbin, Greener & Cook*, for *Raley & Sons*, of Barnsley.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Ballard's Conveyance.

Clauson, J. 16th, 17th and 18th March, 6th April and 3rd May, 1937.

COVENANT—RESTRICTIVE COVENANTS—RUNNING WITH LAND—LAND INTENDED TO BE BENEFITED—EXTENT—ENFORCEABILITY.

In April, 1906, about 18 acres of land consisting of two closes were put up for auction as lots 2 and 3, together with a property known as Banville Farm, described as lot 1. By condition 8 of the conditions of sale it was provided that they were sold subject to certain scheduled conditions, and that every purchaser in the assurance of the property to him should covenant, so as to bind his representatives and assigns, with the vendor, his heirs, assigns and successors in title, owners of the Childwickbury Estate (which extended to about 1,700 acres), to observe the conditions so far as they related to the purchased property. One Wright bought lots 2 and 3, lot 1 remaining unsold, and the vendor, who had a life interest in the property and in the rest of the estate, conveyed it to him in exercise of her Settled Land Act powers. The property was conveyed with the benefit of the conditions in the schedule to the conveyance, so far as related to the property comprised in lot 1 in the event of its being sold, and subject to the same conditions so far as related to the property comprised in the conveyance. The purchaser covenanted with the vendor, her heirs, assigns and successors in title, owners from time to time of the Childwickbury Estate, that he, his heirs and assigns, would observe the conditions set forth in the schedule to the conveyance so far as they related to the property conveyed. These conditions forbade the building of anything on the property, save private dwelling-houses or red brick garden or farm buildings approved by the vendor or her surveyor and restricted the user of them. They also forbade user of the property or the buildings for any purpose which might be or tend to become a nuisance to the owners or occupiers of any part of the Childwickbury Estate. It was further provided that nothing in the conditions should oblige the vendor to enforce the stipulations or preclude her from waiving them, and that she should be free to release any part of the property from all or any of them. The property bound was defined as including lots 1, 2 and 3. Reference to the vendor included her successors in title, owners of any part of the estate for the time being unsold. Reference to the purchaser included his heirs and assigns. In 1907 the vendor sold all the remaining portion of the estate, save the land comprised in lot 1, which she sold in 1908. In neither conveyance was reference made to the scheduled stipulations nor to the purchaser's covenant in the conveyance of 1906. The vendor died in 1919. The purchaser now sought a declaration under the Law of Property Act, 1925, ss. 84 (2) and 203 (5), that no part of the property he had purchased was any longer affected by the restrictions in the conveyance.

CLAUSON, J., in giving judgment, said that the covenant in question was for the benefit of the vendor as owner of a particular property. It could be enforced by the covenantee while owner of that property and also by a person who became owner by a title derived from her, provided it came within the category of covenants, the benefit of which could be made to run with the land in the strict legal sense. Reference to the Childwickbury Estate indicated the property conveyed in 1907, and it was the land for the benefit of which the covenant was taken. It was now vested in the respondents to this summons under a title derived ultimately from the covenantee. For a covenant taken for the benefit of land to run with it, it had to "concern or touch" the land (*Rogers* v. *Hosegood* [1900] 2 Ch. 388, at p. 395). But here, while a breach of the conditions might possibly affect part of the Childwickbury Estate lying near to the land conveyed in 1906, subject to the covenant, the largest portion of the estate could not be affected by any such breach. There was no authority for severing the covenant and treating it as annexed to or running with such part of the land as was touched by or concerned with it, though as regarded the remainder of the land the covenant was not annexed to it and could not run with it. Here the attempted annexation failed and the covenant was not enforceable. There would be the declaration sought.

COUNSEL: *Harman*, K.C., and *A. G. Cross*; *Morton*, K.C., and *Winterbotham*.

SOLICITORS: *McKenna & Co.*; *Page, Moore & Page*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Morley's Estate; Hollenden *v.* Morley.

Simonds, J. 4th May, 1937.

ADMINISTRATION — TESTATOR'S ESTATE CONSISTING OF INTEREST IN PARTNERSHIP—SETTLED LEGACIES—PAYMENT POSTPONED OVER SEVERAL YEARS—PAYMENTS ON ACCOUNT —APPROPRIATION BETWEEN PRINCIPAL AND INTEREST.

The testator, who died in 1920, left estate valued at about £1,500,000, consisting almost entirely of his interest in a partnership. Under the partnership deed and as a matter of convenience sufficient money to pay the legacies could not be withdrawn except gradually. There were a very large number of legacies, most of them under £500, but some were large and had been settled, including three of £100,000, £50,000 and £25,000 respectively. Divers administration orders were made in 1920, 1922, 1926 and 1930 under which all legacies under £500 were paid in full with interest, and payments were made on account of the larger settled legacies and interest thereon at 2½ per cent. generally. The question now arose whether the payments made on account should be treated as made (*a*) primarily on account of principal and only when it had been fully satisfied on account of interest; (*b*) primarily in satisfaction of interest due at the date of payment and subject thereto on account of payment; or (*c*) rateably on account of principal and interest due at the date of payment.

(In the case of the later orders there had been some appropriation in respect of principal and interest as between life tenant and reversioner, but these questions had not been raised as between pecuniary and reversionary legatees, and at the dates when the payments on account were made there was no certainty that the legacies would ultimately be paid in full.)

SIMONDS, J., in giving judgment, said that the rule of administration was settled in *Thomas* v. *Montgomery*, 1 Russ. & My. 729, which decided that when a payment was made on account of principal and interest of a legacy it must be ascribed first to payment of interest at 4 per cent. and then to principal. Nothing in this will prevented the rule from applying. As to the administration orders, in 1922 an order had been made on account of both principal and interest in the case of certain legacies. The later orders determined the appropriation of moneys paid on account as between the tenants for life and reversioners of settled legacies, but the present question had not been determined. Therefore, nothing in the previous orders prevented the rule from applying and the payments must be attributed to interest in the first place and subject thereto to principal.

COUNSEL: *J. N. Gray; Evershed*, K.C., and *David Jenkins; Romer*, K.C.; *R. Walker; Harman*, K.C., and *W. M. Hunt; L. Falk.*

SOLICITORS: *Biddle, Thorne, Welsford & Gait; Morten, Cutler & Co.; Robins, Hay & Waters; Pennington & Son.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Pilkington's Will Trusts; Pilkington *v.* Harrison.

Farwell, J. 7th May, 1937.

WILL—TRUST FUND—PROTECTED LIFE INTEREST—DETERMINATION IF CHARGED—TENANT FOR LIFE DOMICILED IN ENGLAND—DEED OF ARRANGEMENT EXECUTED IN SCOTLAND—ASSIGNMENT OF PROPERTY—NO REGISTRATION—WHETHER LIFE INTEREST DETERMINED—DEEDS OF ARRANGEMENT ACT, 1914 (4 & 5 Geo. 5, c. 47), s. 2.

The testator, who died in 1932, bequeathed his residuary estate to trustees, giving his wife the income during widowhood, and directing that on her death a trust fund should be raised for the benefit of her nephew F.C.H., paying the income to him for life, provided that at the time of the trust taking effect in possession nothing had happened whereby the life interest would have become charged in favour of other persons. The life interest was to determine if such an event happened, and then there was a discretionary trust in favour of F.C.H., his wife and issue. In 1933 F.C.H., who was domiciled in England but at the time resident in Scotland, signed a deed at Jedburgh assigning to a trustee for the benefit of his creditors "my whole means and estate heritable and movable, real and personal, wherever situated, now pertaining and belonging or due and indebted to me, or over which I may have any power of disposal, or to which I may succeed during the subsistence of this trust." This deed was not registered in accordance with the Deeds of Arrangement Act, 1914, s. 2. The testator's widow having died in 1936, the question arose whether by reason of the deed the life interest had determined.

FARWELL, J., in giving judgment, said that the tenant for life had relied on *In re Waley's Trusts*, 3 Drew. 165, but that was a decision on construction which the court was not bound to follow in construing a different document. This deed covered the life interest. It had also been contended that it was void because it had not been registered. His lordship considered its terms and said that, on the face of it, the law intended to be applied in dealing with it was Scots law. It was valid in England to the extent that by Scots law it was valid, and if the trustee sought to recover property from persons in this country, he would be entitled to rely on it though it was not registered, since it was not such a deed of arrangement as was referred to in the Act. Therefore there was a forfeiture and the discretionary trust came into operation.

COUNSEL: *F. Farrer; A. Mathews; R. Goff; G. Upjohn; Watmough; Ungoed-Thomas.*

SOLICITORS: *Farrer & Co.; Norris, Allens & Co.; Torr & Co.; Waltons & Co.; A. F. & R. W. Tweedie.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Yukon Consolidated Gold Corporation Ltd. *v.* Clark.

MacKinnon, J. 22nd March, 1937.

FOREIGN JUDGMENTS—JUDGMENT OBTAINED IN SUPREME COURT OF ONTARIO—PROCEEDINGS OTHERWISE THAN BY WAY OF REGISTRATION TO ENFORCE IN HIGH COURT—WHETHER MAINTAINABLE—ADMINISTRATION OF JUSTICE ACT, 1920 (10 & 11 Geo. 5, c. 81), ss. 9, 14—FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT, 1933 (23 & 24 Geo. 5, c. 13), ss. 1, 2, 6, 7.

Action to enforce a judgment obtained in the Supreme Court of Ontario.

The plaintiffs were successful in proceedings in the Supreme Court of Ontario, and obtained judgment with costs. They now sued the defendants for the amount of the taxed costs of those proceedings. The defendant contended that the plaintiffs' right to sue on the Ontario judgment had disappeared by virtue of s. 29 (2) (*e*) of Pt. II of the Administration of Justice Act, 1920, and the Foreign Judgments (Reciprocal Enforcement) Act, 1933, and that the plaintiffs should have adopted the machinery provided by s. 9 (1) of the Act of 1920, which enacts that, where a judgment has been obtained in a superior court in any part of the dominions outside the United Kingdom to which the Act applies, the plaintiffs may apply to the High Court to have the judgment registered. By s. 14 (1) His Majesty may, where reciprocal provisions have been enacted by the legislature of any part of the dominions for the enforcement there of judgments obtained in the United Kingdom, by Order in Council declare that the Act of 1920 applies to that part of the dominions. Certain Orders in Council have been made under that provision, but none in respect of Ontario. By s. 1 (1) of Foreign Judgments (Reciprocal Enforcement) Act, 1933, His Majesty, if he is satisfied that substantial reciprocity of treatment will be assured as respects the enforcement in a foreign country of judgments given in the superior courts of the United Kingdom, may by Order in Council direct, *inter alia*, that the Act shall extend to that foreign country. By s. 6, no proceedings for the recovery of a sum payable under a foreign judgment to which the Act applies, other than proceedings by way of registration of the judgment, shall be entertained by any court in the United Kingdom. By s. 7, His Majesty may by Order in Council direct that the Act shall apply to the dominions and to judgments obtained in their courts as it applies to foreign countries, and, in the event of his so directing, the Administration of Justice Act, 1920, is to cease to have effect except in relation to those parts of the dominions to which it extends at the date of the order.

MACKINNON, J., said that before the Act of 1920 could apply and enable the plaintiffs to have their judgment registered under s. 9 in the High Court in this country, there must, by s. 14 (1), be a provision by Order in Council that the Act should apply to that part of the dominions where the judgment was obtained. No such Order in Council had been made with regard to Ontario, and therefore it was not open to the plaintiffs to apply for registration of their judgment. But even if there were such an order, he (his lordship) was not clear that that would preclude the plaintiffs from bringing an action on the judgment. An Order in Council under s. 7 of the Act of 1933 had been made directing that the Act should apply to Canada. But here again, before registration was

open to the plaintiffs, it was necessary, by s. 1, that a further Order should be made in Council extending the Act to Ontario. No such order had in fact been made. It followed that the plaintiffs' action was not barred either by the provisions of the Act of 1920, or by s. 6 of the Act of 1933, and there must be judgment in their favour.

COUNSEL: *St. John Field*, K.C. and *Gerald Gardiner*, for the plaintiffs; *J. P. Eddy*, K.C., and *H. Lawton*, for the defendant.

SOLICITORS: *Broad & Son; Percy Haseldine & Co.*

[Reported by R. C. CALBURN, Esq Barrister-at-Law.]

Etherington *v.* **Carter.**

Lord Hewart, C.J., Humphreys and Singleton, JJ.
16th April, 1937.

LOCAL GOVERNMENT—STREET TRADING—ORDER BY BOROUGH COUNCIL PROHIBITING DURING CERTAIN MONTHS IN EVERY YEAR—VALIDITY—TOWN POLICE CLAUSES ACT, 1847 (10 & 11 Vict. c. 89), s. 21.

Appeal by case stated, from a decision of Windsor justices.

An information was preferred by the respondent charging the appellant, Etherington, with having, on the 21st July, 1936, committed a breach of an order of the Windsor Borough Council, made under s. 21 of the Town Police Clauses Act, 1847, by using a street called Riverside for the purpose of selling confectionery. In July, 1936, the borough council, at the instigation of the Watch Committee, made an order under s. 21 of the Act of 1847, as follows: "During . . . May, June, July, August and September in each year no . . . person shall use the streets set out in the schedule hereto for . . . selling therein toys, postcards, souvenirs, fruit, vegetables, flowers, confectionery or ice-cream, and all constables are directed to enforce the provisions of this order." Riverside was one of the streets referred to in the schedule. The police sometimes had difficulty in obtaining evidence of annoyance to prosecute successfully under the bye-laws of the borough. Contrary to the terms of the order, the appellant was selling confectionery at 7 p.m. on the 21st July, 1936, on Riverside, having previously been informed of the order and warned. It was contended for him that the order had not been made in good faith to regulate obstruction in the streets; that it was inequitable, and that it was in its terms in excess of the powers given by s. 21 of the Act of 1847. The justices held that the order was valid, and fined the appellant five shillings.

LORD HEWART, C.J., said that it undoubtedly appeared that the three members of the court in *Teale* v. *Williams* [1914] 3 K.B. 395, did not exhibit a uniform degree of enthusiasm in supporting the order which had been made. He agreed with the analysis of the section made by Shearman, J., who said, at p. 399, that, although the statute was not very aptly worded, the intention was to confer the widest possible power to be exercised by the local authority. That case was followed in *Edwards* v. *Wanstall* (1929), 46 T.L.R. 101. It was contended for the present appellant that *Teale* v. *Williams*, *supra*, might be differentiated from the present case because, in the order referred to in that case, there was a specified number of limited hours, whereas, *per contra*, the order in the present case did not contain any limitation as to hours or as to the mode of trading which was to be affected. That difference was, in his (the Lord Chief Justice's) opinion, one which made no real distinction. If the authority concerned had applied their minds to the question of the hours properly to be dealt with in their order, they would undoubtedly have come to the conclusion that every hour should be named as the time during which the endeavour to sell or the desire to buy might be expected to lead to a crowd's assembling in the streets—in other words, the position of the appellant would have been exactly the same. Instead of naming every hour, the local authority had thrown the net generally over particular days in the summer months. He could not think that the generality of that provision in the least militated against the validity of the order. Except for a *dictum* of Swift, J., in *Edwards* v. *Wanstall*, 46 T.L.R. 101, at p. 103, reiterating a certain element of doubt expressed by Rowlatt, J., in *Teale* v. *Williams*, *supra*, *Teale* v. *Williams* had not been the subject of any judicial hesitation. In the present case the court was following, and not extending, the decision in *Teale* v. *Williams*, the principles of which applied to the slightly different circumstances of the present case. The appeal must be dismissed.

COUNSEL: *A. S. Comyns Carr*, K.C., and *Davidson*, for the appellant; *R. M. Montgomery*, K.C., and *W. E. P. Done*, for the respondents.

SOLICITORS: *J. R. Cort Bathurst; Sharpe, Pritchard & Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Southport Corporation *v.* **Lancashire County Council.**

Lawrence, J. 21st, 22nd, 23rd April, 1937.

POOR LAW AUTHORITY—PROPERTIES AND LIABILITIES—TRANSFER TO COUNTY COUNCIL AND BOROUGH COUNCIL—AREA OF AUTHORITY EXTENDING INTO THOSE OF COUNCILS—AGREEMENT BETWEEN COUNCILS WITH REGARD TO COMPENSATION PAYABLE BY ONE TO THE OTHER—PROVISION FOR PAYMENT OF "INTEREST" ON SUMS FOUND DUE—WHETHER INTEREST WITHIN MEANING OF INCOME TAX ACT, 1918—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), General Rules Applicable to All Schedules, rr. 19, 21—LOCAL GOVERNMENT ACT, 1929 (19 & 20 Geo. 5, c. 17), ss. 1, 113, Sched. VI.

Action tried by Lawrence, J., without a jury on a case stated by the parties.

By s. 1 of the Local Government Act, 1929, the old poor law authorities were to cease to exist, and their functions were, on the appointed day, 1st April, 1930, to be transferred to the county councils or borough councils whose areas comprised those of the authorities. Section 113 (1) of the Act provided for the transfer on 1st April, 1930, to county and borough councils of the property and liabilities of the poor law authorities. The area of a certain poor law authority extended partly into that of the plaintiffs, a borough council, and partly into that of the defendants, a county council. In pursuance of s. 113 (2) (*a*) of the Act, the plaintiffs and defendants entered into an agreement whereby the authority's properties specified in the first schedule to the agreement were to be transferred to the defendants, and those specified in the second schedule to the plaintiffs. It was also provided that compensation, to be calculated in a manner specified, should be paid by the defendants to the plaintiffs in respect of the properties in the first schedule, and by the plaintiffs to the defendants in respect of those in the second schedule. The agreement further provided that the two sums thus found due by each party to the other should be payable on 1st October, 1930, and should carry interest as from 1st April, 1930. The defendants, in paying the plaintiffs the sum due to them under the agreement, deducted income tax from that part of the payment which represented the interest. The plaintiffs accordingly claimed a declaration that no deduction ought to be made and payment of the sum deducted. By s. 113 (2) of the Act: ". . . the following provisions shall have effect in the case of a poor law authority whose area is not wholly comprised within one county or county borough—(*a*) all institutional property of the authority shall on the appointed day . . . be transferred . . . to . . . two or more . . . councils, or may be divided between any two or more of those councils, as may be agreed between the councils . . . (*d*) as soon as practicable after the appointed day there shall be made, in accordance with the provisions contained in the Sixth Schedule to this Act . . . (ii) . . . an adjustment in respect of the institutional property . . . of the authority."

LAWRENCE, J., after reviewing the relevant provisions of the Act of 1929, said that the authorities showed clearly that the fact that a sum of money payable was called interest was not enough to constitute it interest within the meaning of the Income Tax Act, and that the reality of the situation must be looked at; see the judgment of the Lord President in *Inland Revenue Commissioners* v. *Ballantine* (1923), 8 Tax Cas. 595, at p. 611. There was nothing in s. 113 of, or in the Sixth Schedule to, the Act of 1929 which in any way contemplated the payment of interest by one council to another. The statute was dealing with capital assets which belonged, before the appointed day, to neither of the councils to which they were to be transferred. In his (his lordship's) opinion, the county council and county borough council had no power to agree on the payment of interest, properly so called, between the appointed day and the day on which the adjustment payment was to be made. The "interest" agreed on between the parties was not interest within the meaning of the Income Tax Act, 1918, and there must be judgment for the plaintiffs.

COUNSEL: *A. M. Latter*, K.C., and *R. P. Hills*, for the plaintiffs; *H. P. Glover*, K.C., and *Ralph Etherton*, for the defendants.

SOLICITORS: *Sharpe, Pritchard & Co.*, for *The Town Clerk*, Southport; *Norton, Rose, Greenwell & Co.*, for *Sir George Etherton*, Preston.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Rex *v.* **Minister of Health:** *Ex parte* **Hack.**

Lord Hewart, C.J., Swift and Humphreys, JJ.
1st June, 1937.

HOUSING—CLEARANCE AREA—OBJECTION—NOTICE ALLEGING THAT PROPERTIES "UNFIT FOR HUMAN HABITATION"—PARTICULARS TO BE GIVEN IN SUPPORT OF ALLEGATION—HOUSING ACT, 1935 (25 & 26 Geo. 5, c. 40), s. 63 (1).

Rule *nisi* for a writ of prohibition.

The applicant for the rule, one, Hack, owned certain properties included in an area declared to be a clearance area by a resolution passed by the West Ham Borough Council in 1935. In 1936 the council made a compulsory purchase order for the acquisition of the land in the area. By s. 63 (1) of the Housing Act, 1935, where a person on whom notice of a clearance order or of a compulsory purchase order is required to be served has objected to the order, the Minister should not cause a public local inquiry to be held earlier than fourteen days after it has been shown to his satisfaction that the local authority have served on the objector a notice in writing stating what facts they allege as their principal grounds for being satisfied that the buildings affected are unfit for human habitation. The applicant notified the Minister of Health that he objected to the making of the order by the borough council. In July and September, 1936, the borough council, purporting to act under s. 63 (1) of the Act of 1935, gave the applicant notices alleging that the properties owned by him in the clearance area were "unfit for human habitation," and setting out facts stated to be in support of that allegation substantially as follows: "Disrepair.—(*a*) External—walls, roofs; (*b*) internal—walls, ceilings, floors, woodwork, staircase . . . Sanitary defects.—Lack of ventilation, dampness, lack of suitable food storage, inadequate paving or drainage of yards . . . Bad internal arrangement . . . Bad arrangement of site . . . Departure from by-law conditions." The applicant alleged that the notices in question did not contain sufficient particulars to enable him to ascertain precisely what the defects were of which the council were complaining, that they did not therefore satisfy the requirements of s. 63 (1), and that the Minister had accordingly no power to hold a public local inquiry.

LORD HEWART, C.J., said that he refrained from expressing any opinion on an interesting and perhaps important point raised by the Solicitor-General, that, in view of s. 11 of the Housing Act, 1930, the present proceeding by prohibition was misconceived. He would only say that at the moment it appeared to him that the limitation which s. 11 imposed on such remedial methods as applications for prohibition or *certiorari* was confined to proceedings relating to clearance orders and compulsory purchase orders. He preferred to base his decision in the present matter on the fact that it appeared to him that the applicant had misconceived the scope and meaning of s. 63 (1) of the Act of 1935. Manifestly, the object of that section was to afford an objector a reasonable interval before the public local inquiry was held, and the time for that interval was to begin to run when the Minister had been satisfied that the local authority had served a certain notice. In view of the plain words of that section, the position appeared to be clear. When the notices received by the applicant were looked at, it could not be seriously argued that the Minister, as a reasonable man, ought not to have been satisfied that sufficient notice of the description required by the section had been served on the applicant. The rule, therefore, ought to be discharged.

SWIFT and HUMPHREYS, JJ., agreed.

COUNSEL: *The Solicitor-General* (Sir Terence O'Connor, K.C.) and *Valentine Holmes*, showing cause for the Minister of Health; *Trustram Eve*, K.C., and *H. G. Robertson*, showing cause for West Ham Borough Council; *C. S. Rewcastle*, K.C., and *D. Meston*, in support.

SOLICITORS: *Solicitor to the Ministry of Health; E. E. King; Deacon & Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

[For Table of Cases previously reported in current volume see page xix of Advertisements.]

Parliamentary News.

Progress of Bills.

House of Lords.

Burgess Hill Water Bill.
Commons Amendments agreed to. [27th May.
East Anglesey Gas Bill.
Commons Amendments agreed to. [1st June.
Exportation of Horses Bill.
Read First Time. [1st June.
Glasgow Corporation Order Confirmation Bill.
Read Third Time. [1st June.
Grangemouth Burgh Extension Order Confirmation Bill.
Considered on Report. [1st June.
Grimsby Corporation (Grimsby and District Water, &c.) Bill.
Read Third Time. [1st June.
Hastings Pier Bill.
Reported with Amendments. [26th May.
Johnstone Burgh Order Confirmation Bill.
Read Third Time. [1st June.
Livestock Industry Bill.
Read Second Time. [27th May.
Local Government (Members' Expenses) (No. 2) Bill.
Read Second Time. [1st June.
London County Council (General Powers) Bill.
Read First Time. [27th May.
London Midland and Scottish Railway Order Confirmation Bill.
Read Third Time. [1st June.
Mansfield District Traction Bill.
Commons Amendments agreed to. [27th May.
Marriage Bill.
Read First Time. [1st June.
Methylated Spirits (Scotland) Bill.
Read Second Time. [1st June.
Poor's Allotments in Walton-upon-Thames Bill.
Read Second Time. [1st June.
Sheep Stocks Valuation (Scotland) Bill.
Read Third Time. [27th May.

Statutory Salaries Bill.
Read First Time. [1st June.
Tatton Estate Bill.
Read First Time. [27th May.
Whitehaven Harbour Bill.
Read First Time. [26th May.

House of Commons.

Ashdown Forest Bill.
Read Second Time. [1st June.
Banbury Waterworks Bill.
Read Second Time. [1st June.
Barnsley Corporation Bill.
Read Third Time. [27th May.
Berkshire County Council Bill.
Read Second Time. [1st June.
Chairmen of Traffic Commissioners, etc. (Tenure of Office) Bill.
Reported without Amendment. [1st June.
Children and Young Persons (Scotland) Bill.
Read First Time. [1st June.
Civil List Bill.
Read Third Time. [1st June.
Coulsdon and Purley Urban District Council Bill.
Read Second Time. [31st May.
East Anglesey Gas Bill.
Read Third Time. [31st May.
Exportation of Horses Bill.
Read Third Time. [28th May.
Factories Bill.
Reported with Amendments. [27th May.
Finance Bill.
Read Second Time. [1st June.
Glasgow Streets Sewers and Buildings Consolidation Order Confirmation Bill.
Read First Time. [2nd June.
Hastings Extension Bill.
Read Second Time. [1st June.
Hertfordshire County Council (Colne Valley Sewerage, etc.) Bill.
Read Second Time. [1st June.
Hydrogen Cyanide (Fumigation) Bill.
Read First Time. [1st June.
Kent Electric Power Bill.
Read Second Time. [1st June.
London County Council (General Powers) Bill.
Read Third Time. [27th May.
Marriage Bill.
Read Third Time. [28th May.
Metropolitan Borough Councils (Proportional Representation) Bill.
Read First Time. [27th May.
Ministry of Health Provisional Order (Birmingham, Tame and Rea Main Sewerage District) Bill.
Read Second Time. [2nd June.
Ministry of Health Provisional Order (Clevedon Water) Bill.
Read Second Time. [28th May.
Ministry of Health Provisional Order (Halifax) Bill.
Read Second Time. [2nd June.
Ministry of Health Provisional Order (Hornsea) Bill.
Read Second Time. [2nd June.
Ministry of Health Provisional Order (Maidenhead Water) Bill.
Read Second Time. [28th May.
Ministry of Health Provisional Order (Sevenoaks Water) Bill.
Read Second Time. [28th May.
Ministry of Health Provisional Order (Tonbridge Water) Bill.
Read Second Time. [28th May.
Ministry of Health Provisional Order (Wisbech Water) Bill.
Read Second Time. [28th May.
Ministry of Health Provisional Order (Yeandon Water) Bill.
Read Second Time. [28th May.
Newquay and District Water Bill.
Amendments considered. [28th May.
North Metropolitan Electric Power Supply Bill.
Lords Amendments agreed to. [31st May.
Pier and Harbour Provisional Order (Fowey) Bill.
Read Second Time. [28th May.
Pontypool Gas and Water Bill.
Read Second Time. [1st June.
Public Health (Drainage of Trade Premises) Bill.
Read Second Time. [27th May.
Saint Paul's and Saint James' Churches (Sheffield) Bill.
Read Second Time. [1st June.
Sheppey Water Bill.
Read Second Time. [31st May.
Staffordshire Potteries Water Board Bill.
Amendments considered. [31st May.
Statutory Salaries Bill.
Read Third Time. [27th May.
Taf Fechan Water Supply Bill.
Read Second Time. [31st May.
Taunton Corporation Bill.
Read Second Time. [31st May.
Trade Marks (Amendment) Bill.
Read Second Time. [27th May.
Wadebridge Rural District Council Bill.
Amendments considered. [28th May.
Walsall Corporation (Trolley Vehicles) Provisional Order Bill.
Read Second Time. [28th May.
West Ham Corporation Bill.
Lords Amendments agreed to. [27th May.

Questions to Ministers.

CORPORAL PUNISHMENT (COMMITTEE).

Mr. MUFF asked the Home Secretary whether he is now in a position to announce the constitution of the committee on corporal punishment.

Sir J. SIMON: At the suggestion of my right hon. Friend the Secretary of State for Scotland, it has been decided that the Committee shall inquire not only into the English but also into the Scottish law and practice. The Committee's terms of reference will be:

"To consider the question of corporal punishment in the penal systems of England and Wales and of Scotland; to review the law and practice relating to the use of this method of punishment by Juvenile Courts, by other Courts and as a penalty for certain offences committed by prisoners; and to report what changes are necessary or desirable."

As already announced, the Hon. Edward Cadogan has consented to act as Chairman of the Committee. The following ladies and gentlemen have now accepted invitations to serve on it:—

The Lady Ampthill, C.I., G.B.E.,
Mrs. A. E. Astley,
Professor J. L. Brierly, O.B.E., J.P.,
Mr. E. Ford Duncanson, D.S.C., M.A., J.P.,
Dr. Robert Hutchison, M.D., F.R.C.P.,
Sir William McKechnie, K.B.E., C.B.,
Mr. H. R. Tutt, and
Mr. Cecil Whiteley, K.C.

My right hon. Friend and I contemplate adding one other woman member whose name will be announced as soon as possible. [27th May.

SUMMARY JURISDICTION COURTS.

Sir A. WILSON asked the Home Secretary whether, and, if so, when, the Government will institute a public inquiry into certain aspects of the work of courts of summary jurisdiction, with a view to considering what amendments are desirable for facilitating consolidation of the existing law upon lines which will promote simplicity and uniformity.

Sir J. SIMON: A committee is at present engaged in considering certain aspects of the work of courts of summary jurisdiction in London, and when it has completed its work the question of undertaking some further inquiry will be considered.

Sir A. WILSON asked the Home Secretary whether he will in the near future issue a consolidated collection of Home Office circulars to justices, many of which are out of print and none easy of reference in the absence of an indexed compilation.

Sir J. SIMON: I recognise that it would be useful if the collections of Home Office circulars which were issued in 1913 and 1925 could be revised and brought up to date. Pressure of other work, however, has hitherto made it impossible to undertake the considerable labour which would be involved. [27th May.

LEGAL EDUCATION COMMITTEE.

Sir A. WILSON asked the Attorney-General, whether the Government can yet make any statement as to the establishment of an institute of legal research as recommended by the Legal Education Committee (Cmd. 4663).

THE ATTORNEY-GENERAL: It is regretted that owing to the pressure of work during the past few months it has not been possible to give full consideration to the establishment of an Institute of Legal Research which was one of the recommendations contained in the Report of the Legal Education Committee. This matter is still under consideration and it is hoped that a decision will be made as soon as this pressure is somewhat relaxed. [28th May.

Societies.

Law Association.

This Association held its 120th Annual General Court at 60, Carey Street on the 31st May, with Mr. Justice LUXMOORE in the chair.

In moving the adoption of the annual report and statement of accounts, his lordship said that he was only a substitute, for everyone knew that Lord Blanesburgh had a prescriptive right to the chairman's seat. He had indeed tried to find out when Lord Blanesburgh had first occupied that position, and none even of the older members that he had cross-examined had been able to tell him. They all said that Lord Blanesburgh had always been the chairman at the annual meeting. Every member would regret his lordship's absence in Switzerland and hope for him a speedy recovery from the illness which had caused him to resign his high judicial office.

Continuing, Mr. Justice Luxmoore said that during its long life the society had distributed over £150,000. Even this large sum was small in comparison with the gratitude it had evoked from its recipients and the mental distress it had relieved. Widows and children of members had last year received some £800, and widows and families of non-members over £1,250. The total was slightly more than that of last year. The Association's Christmas gifts and gifts for the children's holidays were small in themselves, but they provided the human touch which made all the difference in charity. Nothing could give greater pleasure to people in straitened circumstances than the knowledge that other people were thinking of them at a time when the world was taking holiday. No member could read the recipients' letters without being touched with the pathos of their gratitude.

The income of the Association during the year had been some £2,800, considerably more than half of which was derived from invested funds. The expenses of administration had amounted to £338, not a large proportion considering the satisfactory way in which the work had been done and the time which it had occupied. Some £850 came from annual and life subscriptions and other payments in the nature of income. Although membership of the Association was confined to solicitors of the Metropolis, most members would agree that the income ought to be larger. An old friend of the chairman's at the Chancery Bar had once confessed that he derived great satisfaction from consulting the Law List and seeing how many London solicitors were still left for him to lose as clients. The present membership was less than 900 out of the 5,000 or 6,000 practising solicitors in the Metropolis, and it ought to be vastly increased. He urged every member to do his best to bring in at least one other member during the next year. There must be some way of bringing the Association's work to the notice of those members of the profession who had not yet joined, even if it were merely represented to them as a form of professional insurance. He also advised members to take advantage of the scheme under which subscriptions might be paid under covenant for seven years. If all members did this, the subscription list would be increased by one-third. Solicitors who had the unpleasant duty of preparing itemised bills found one item in them pleasant: the 33⅓ per cent. increase which they were allowed to add at the end. To use the scheme and gain this increase for the Association cost nothing more than the effort of putting pen to paper. The amount of income tax recovered during the last year had been £43, not a large sum in a subscription list of over £800.

Mr. A. E. CLARKE, seconding the motion, also emphasised the need for increasing the membership. He mentioned that the credit balance of the Association meant very little, because the directors were bound to keep something in hand to meet an unexpected appeal at the end of the year.

Lord Blanesburgh was re-elected President for the ensuing year, and the meeting passed the customary votes of thanks to the officers and directors.

Mr. E. EVELYN BARRON complimented Mr. J. E. W. Rider and his fellow Treasurer, Mr. John Venning, on their efficiency and helpfulness to the Secretary at times when the advice of the committee could not be taken.

Dr. E. LESLIE BURGIN, Minister of Transport, proposing a vote of thanks to the chairman for presiding, said that a learned judge who had a nickname was bound to be a particularly good sort, and their chairman, familiarly known as "Lux," had shed radiance on everything he had done and had adorned everything he had tackled—except perhaps on the Rugby field. Presiding over a benevolent meeting, he had shown his keen human interest in the Association's work.

The Law Society.

ANNUAL GENERAL MEETING.

The annual general meeting of the members of The Law Society will be held in the Hall of the Society on Friday, the 9th July, at 2 p.m. The following are the names of the members of the Council retiring by rotation: Mr. Bateson, Dr. Burgin, Mr. Collins, Mr. Dowson, Mr. Drake, Mr. Morgan, Sir Charles Morton, Sir Harry Pritchard, Mr. Smart and Mr. Francis Smith. So far as is known, they will be nominated for re-election. There are two other vacancies caused by the resignations of Mr. Thomas Hume Bischoff and Mr. Harold Marson Farrer.

Lincoln's Inn.

GRAND DAY.

Tuesday, 1st June, being Grand Day in Trinity Term, the Treasurer of Lincoln's Inn (Mr. Justice Clauson) and the Masters of the Bench entertained at dinner the following guests: Viscount Dawson of Penn, Sir Tej Bahadur Sapru, Lord Atkin, Lord Thankerton, Jonkheer Dr. W. M. de Brauw, Lord Macmillan, Lord Plender, Sir Akbar Hydari, Sir Wilfrid Greene (the Master of the Rolls), Lord Justice Scott, Sir Herbert Creedy, Sir John Beaumont, K.C. (Chief Justice of Bombay), Sir William Malkin, Sir Russell Scott, Mr. Justice Milner Stephen (Supreme Court, New South Wales), Sir Walter Monckton, K.C., Mr. Spencer Leeson, Mr. C. K. Allen, the Preacher (the Rev. Canon V. F. Storr), the Chaplain (the Rev. Randolph Tasker), and the Under Treasurer (Sir Reginald Rowe). The Benchers present on the occasion in addition to the Treasurer were: Sir Alfred Hopkinson, K.C., Sir Harry Eve, Sir Paul Lawrence, Mr. C. E. E. Jenkins, K.C., Lord Justice Romer, Lord Alness, Sir Felix Cassel, K.C., Mr. Stanley M. Bruce, Mr. F. W. Pember, Mr. Justice Macnaghten, Mr. F. H. L. Errington, Mr. Theobald Mathew, Mr. R. E. L. Vaughan Williams, K.C., Sir Herbert Cunliffe, K.C., Mr. Justice Atkinson, Sir Malcolm McIlwraith, K.C., Judge Thompson, K.C., Sir William Holdsworth, K.C., Mr. H. A. Holland, His Honour Hugh Sturges, K.C., Mr. A. M. Latter, K.C., Judge Reeve, K.C., Mr. Justice Crossman, Mr. Wilfrid Hunt, Mr. Tom Eastham, K.C., Mr. A. L. Ellis, Mr. Justice Bennett, Mr. Justice Simonds, Mr. H. T. Methold, Mr. R. H. Hodge, Sir Chartres Biron, Mr. F. D. Morton, K.C., Mr. A. E. Russell, Mr. C. W. Turner, Mr. R. A. Willes, Mr. L. L. Cohen, K.C., Sir George Rankin, Mr. W. Cleveland-Stevens, K.C., Mr. J. Norman Daynes, K.C., Mr. A. P. Vanneck, Mr. L. W. Byrne, Mr. Linton Thorp, K.C., Mr. E. Riviere, Mr. W. Gordon Brown and Mr. A. C. Nesbitt.

Middle Temple.

GRAND DAY.

Tuesday, 1st June, being Grand Day of Trinity Term at the Middle Temple, the Master Treasurer (Mr. Heber Hart, K.C.) and the Masters of the Bench entertained the following guests at dinner: The Prime Minister of the Dominion of Canada, the Prime Minister of the Union of South Africa, Sir M. Zafrullah Khan, Mr. Malcolm MacDonald, M.P., the Hon. W. Ormsby-Gore, M.P., Sir Archdale Parkhill, M.P., Mr. J. H. Smit, M.P., the High Commissioner for the Dominion of Canada, the High Commissioner for Southern Rhodesia, Mr. A. Duff Cooper, M.P., Mr. A. V. Alexander, M.P., Sir Thomas Inskip, K.C., M.P., Sir Cuthbert Wallace, Air Chief Marshal Sir Edward Ellington, Sir William Llewellyn, Sir William Henry Bragg, O.M., Rear-Admiral Arthur Bromley, the Master of the Temple (the Rev. Canon Harold Anson), Mr. Geoffrey Dawson, the Rev. Hugh Martin, Mr. E. A. Pickering, and the Reader at the Temple Church (Prebendary J. F. Clayton). In addition to the Master Treasurer, the following Masters of the Bench were present: Judge Ruegg, K.C., Sir Ellis Hume-Williams, K.C., Lord Craigmyle, Viscount Dunedin, Mr. St. J. G. Micklethwait, K.C., Sir Lynden Macassey, K.C., the Hon. S. O. Henn Collins, K.C., Mr. A. M. Dunne, K.C., Lord Cautley, K.C., Mr. J. M. Gover, K.C., Mr. J. Bruce Williamson, Judge Dumas, Mr. A. M. Sullivan, K.C., Judge Sir Thomas Artemus Jones, K.C., Mr. W. E. Vernon, Mr. A. T. Miller, K.C., Viscount Rothermere, Mr. J. Scholefield, K.C., Sir W. A. Jowitt, K.C., Mr. W. Craig Henderson, K.C., Mr. Walter Frampton, Mr. J. Bowen Davies, K.C., Mr. J. M. Paterson, Colonel Sir Henry F. MacGeagh, K.C., Judge Lilley, Mr. Raymond Needham, K.C., Mr. Henry Johnston, Mr. Trevor Hunter, K.C., Mr. Bruce Thomas, K.C., the Marquess of Reading, K.C., Mr. Wilfrid Price, Mr. H. C. Gutteridge, K.C., Mr. S. G Turner, K.C., and Mr. D. Rowland Thomas, K.C., and the Under Treasurer (Mr. T. F. Hewlett).

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve that Sir GEORGE JOHN TALBOT be sworn of His Majesty's Most Honourable Privy Council on his resignation of the office of Justice of the High Court of Justice.

His Majesty has also been pleased to approve the appointment of Mr. FREDERIC JOHN WROTTESLEY, K.C., as one of the Justices of the High Court of Justice (King's Bench Division). Mr. Wrottesley was called to the Bar by the Inner Temple in 1907, and took silk in 1926.

The Secretary of State for Scotland has appointed Mr JAMES WARNOCK, Sheriff Clerk of the Western Division of the Sheriffdom of Dumfries and Galloway, at Kirkcudbright, to be Sheriff Clerk of Ayr, with effect from 1st July next, in the room of Mr. JAMES YOUNG, who has been appointed Sheriff Clerk of Mid Lothian and Commissary Clerk of Edinburgh.

The Council of Legal Education announce the appointment, as from the commencement of the Michaelmas Term, 1937, of Sir WILLIAM HOLDSWORTH, D.C.L., K.C., Barrister-at-Law, Bencher of Lincoln's Inn, Vinerian Professor of English Law, Fellow of All Soul's College, Oxford, to be Reader in Constitutional Law (English and Colonial) and Legal History at the Inns of Court, and Mr. E. MILNER HOLLAND, M.A., B.C.L., Barrister-at-Law, of the Inner Temple, to be Reader in Equity at the Inns of Court.

Sir MAURICE GWYER, Chief Justice Designate of India, has been elected to an honorary studentship at Christ Church, Oxford.

Notes.

The second annual dinner of the Christ Church Law Club was held at the Café Royal last Monday.

Lord Sankey, former Lord Chancellor, is to be president of the International Peace Society, which was formed in 1816.

Mr. Robert Cobb, of Rochester, has been elected president of the Chartered Surveyors' Institution, in succession to Mr. John M. Theobald.

The annual dinner of the Central Criminal Court Bar Mess was held at the Café Royal on Tuesday, 1st June, Mr. J. D. Cassels, K.C., being in the chair.

Mr. J. S. C. Reid, K.C., Solicitor-General for Scotland, has been adopted as National Unionist and Government candidate for the Hillhead Division of Glasgow.

The first of the second series of Coronation Tours, in aid of King Edward's Hospital Fund for London, will be held on Wednesday, 9th June, when the Tower of London will be visited. The tour will be conducted by Mr. Walter G. Bell, F.S.A., F.R.A.S. Further particulars may be obtained from the Secretary, King Edward's Hospital Fund for London, 10, Old Jewry, E.C.2.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. I.	GROUP II. MR. JUSTICE CLAUSON. Witness Part I.	MR. JUSTICE LUXMOORE. Non-Witness
	Mr.	Mr.	Mr.	Mr.
June 7	More	Jones	*Blaker	Hicks Beach
„ 8	Hicks Beach	Ritchie	*More	Andrews
„ 9	Andrews	Blaker	*Hicks Beach	Jones
„ 10	Jones	More	Andrews	Ritchie
„ 11	Ritchie	Hicks Beach	Jones	Blaker
„ 12	Blaker	Andrews	Ritchie	More

DATE	GROUP II. MR. JUSTICE FARWELL. Witness Part II.	MR. JUSTICE BENNETT. Non-Witness.	GROUP I. MR. JUSTICE CROSSMAN. Witness Part I.	MR. JUSTICE SIMONDS. Witness Part II.
	Mr.	Mr.	Mr.	Mr.
June 7	*More	Ritchie	*Andrews	Jones
„ 8	*Hicks Beach	Blaker	*Jones	Ritchie
„ 9	*Andrews	More	*Ritchie	Blaker
„ 10	*Jones	Hicks Beach	*Blaker	More
„ 11	*Ritchie	Andrews	*More	Hicks Beach
„ 12	Blaker	Jones	Hicks Beach	Andrews

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 10th June, 1937.

	Div. Months.	Middle Price 2 June 1937.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	109½	3 13 1	3 6 10
Consols 2½%	JAJO	75½xd	3 6 3	—
War Loan 3½% 1952 or after	JD	101½	3 9 0	3 7 6
Funding 4% Loan 1960-90	MN	110½	3 12 5	3 6 9
Funding 3% Loan 1959-69	AO	95½	3 2 10	3 4 7
Funding 2¾% Loan 1952-57	JD	92½	2 19 6	3 5 4
Funding 2½% Loan 1956-61	AO	87½	2 17 2	3 5 2
Victory 4% Loan Av. life 22 years	MS	109½	3 13 1	3 7 11
Conversion 5% Loan 1944-64	MN	113	4 8 6	2 15 5
Conversion 4½% Loan 1940-44	JJ	105⅝xd	4 5 3	2 10 7
Conversion 3½% Loan 1961 or after	AO	101½	3 9 0	3 8 2
Conversion 3% Loan 1948-53	MS	100¼	2 19 10	2 19 6
Conversion 2½% Loan 1944-49	AO	97¼	2 11 5	2 15 6
Local Loans 3% Stock 1912 or after	JAJO	87½xd	3 8 7	—
Bank Stock	AO	345½	3 9 5	—
Guaranteed 2½% Stock (Irish Land Act) 1933 or after	JJ	78xd	3 10 6	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	86½xd	3 9 4	—
India 4½% 1950-55	MN	110½	4 1 5	3 9 7
India 3½% 1931 or after	JAJO	91xd	3 16 11	—
India 3% 1948 or after	JAJO	77½xd	3 17 5	—
Sudan 4½% 1939-73 Av. life 27 years	FA	111	4 1 1	3 16 10
Sudan 4% 1974 Red. in part after 1950	MN	109	3 13 5	3 2 11
Tanganyika 4% Guaranteed 1951-71	FA	109½	3 13 1	3 2 11
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	106xd	4 4 11	3 0 6
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	91	2 14 11	3 2 8
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	104xd	3 16 11	3 13 10
Australia (Commonw'th) 3% 1955-58	AO	90	3 6 8	3 13 9
Canada 4% 1953-58	MS	109	3 13 5	3 5 5
*Natal 3% 1929-49	JJ	99xd	3 0 7	3 2 0
*New South Wales 3½% 1930-50	JJ	99xd	3 10 8	3 12 0
New Zealand 3% 1945	AO	94	3 3 10	3 17 9
Nigeria 4% 1963	AO	110	3 12 9	3 8 4
*Queensland 3½% 1950-70	JJ	98xd	3 11 5	3 12 1
South Africa 3½% 1953-73	JD	103	3 8 0	3 5 2
*Victoria 3½% 1929-49	AO	100	3 10 0	3 10 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	88xd	3 8 2	—
Croydon 3% 1940-60	AO	96	3 2 6	3 5 0
Essex County 3½% 1952-72	JD	102xd	3 8 8	3 6 9
Leeds 3% 1927 or after	JJ	86½	3 9 4	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	99xd	3 10 8	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	74¼	3 7 1	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	85	3 10 7	—
Manchester 3% 1941 or after	FA	87	3 9 0	—
Metropolitan Consd. 2½% 1920-49	MJSD	96	2 12 1	2 18 0
Metropolitan Water Board 3% "A" 1963–2003	AO	89½	3 7 0	3 8 0
Do. do. 3% "B" 1934-2003	MS	90½	3 6 4	3 7 2
Do. do. 3% "E" 1953-73	JJ	94	3 3 10	3 5 9
*Middlesex County Council 4% 1952-72	MN	108	3 14 1	3 6 2
* Do. do. 4½% 1950–70	MN	113	3 19 8	3 5 3
Nottingham 3% Irredeemable	MN	85½	3 10 2	—
Sheffield Corp. 3½% 1968	JJ	104	3 7 4	3 5 10
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	110½	3 12 5	—
Gt. Western Rly. 4½% Debenture	JJ	119½	3 15 4	—
Gt. Western Rly. 5% Debenture	JJ	130½	3 16 8	—
Gt. Western Rly. 5% Rent Charge	FA	129½	3 17 3	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	127½	3 18 5	—
Gt. Western Rly. 5% Preference	MA	121½	4 2 4	—
Southern Rly. 4% Debenture	JJ	109½	3 13 1	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	110½	3 12 5	3 7 5
Southern Rly. 5% Guaranteed	MA	128	3 18 2	—
Southern Rly. 5% Preference	MA	119½	4 3 8	—

*Not available to Trustees over par.
‡In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

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